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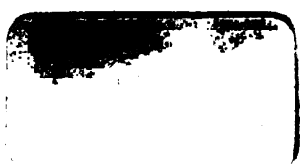
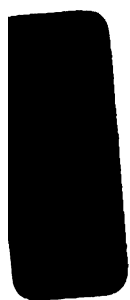
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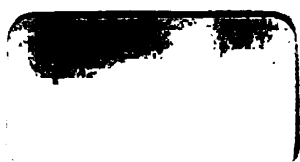
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LBC
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THE
A C T S
OF
S E D E R U N T

OF THE
Lords of Council and Session,

FROM THE
12th NOVEMBER 1790, to the 11th of MARCH 1800.

Published by Authority of the Court.



EDINBURGH:
PRINTED FOR
BELL & BRADFUTE,
BOOKSELLERS TO THE FACULTY OF ADVOCATES,
By ADAM NEILL and Company.
1800.

8th March 1799.

" ON the motion of the Lord Advocate, as Dean of Faculty, the Lords allowed and authorized the Collectors of Decisions, appointed by the Faculty of Advocates, to publish the Acts of Sederunt passed since the late publication of them in 1790, and in future ; and, for that purpose, to have access to, and take excerpts from, the Sederunt Books of the Court."

In virtue of this authority, the following publication contains every entry in the Books of Sederunt, which appeared to the Collectors of Decisions to be of any general importance.

A C T S
OF
S E D E R U N T
OF THE
COURT OF SESSION.

3d February 1791. 1791.

Bond by Douglas, Heron and Company, to the Court,
ordered to be delivered up.

THIS day, the Lords authorised the Lord President and Lord Swinton, who had the keys of the preſs where the writings belonging to the Lords are depoſited, to deliver up to Mr George Home, for Douglas, Heron and Company, the bond granted by that Company to the Lords, and the bond of corroboration by their directors, for L. 22,700, the ſtock belonging to the Court, now paid by that Company to the Receiver-General of the taxes for Scotland, in terms of the act of Parliament.

16th February 1791.

Prorogation of the Act of Sederunt with regard to
Replies.

THE Lords prorogate and renew the act of ſederunt of the 10th December 1777, concerning replies in the Inner-Houſe, with the addition contained in the prorogation of the 5th February 1783, which is here referred to, and that to the firſt ſederunt-day of March 1792; and declare the ſaid act to continue to that day, and no longer.

Committee named, to conſider Dues payable to the
Keeper of the Inner-Houſe Rolls, Macers, and Ex-
tractors.

THE Lords nominate and appoint the Lords Juſtice-Clerk, Swinton and Dunſinnan, as a committee of their number, of whom Lord Juſtice-Clerk to be convener, and any two to be a quorum, to conſider any new regulations that may be neceſſary with regard to the dues payable to the keeper of the Inner-Houſe rolls, and to the macers of Court.

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They

1791.

They also nominate and appoint the Lords Justice-Clerk, Eskgrove and Dunfinnan, as a committee, Lord Justice-Clerk, convenor, and any two to be a quorum, to consider any new regulations that may be necessary with respect to the dues in use to be paid to the extractors in the clerks' offices.

24th February 1791.

Regulations with regard to Box-days in the Spring Vacation.

THE Lords declare the box-days in the ensuing vacation to be Thursday, the 14th, and Thursday, the 28th April, next; and appoint intimation thereof to be made on the walls of the Inner and Outer House, in common form, and to be entered in the books of sederunt.

It is understood, that in general all answers, particularly to reclaiming petitions against Inner-House interlocutors, and other papers ordered for the box-days, are to be boxed on the first of the above days, unless there be a reasonable excuse; in which case the fine will be dispensed with, if they are boxed on the second box-day, except in the case of additional petitions and replies, which must be put in upon the first box-day, without any dispensation; and the answers to these additional petitions, together with the duplicates, must be put in on the second box-day.

11th March 1791.

Act, allowing an Additional Fee to the Macers, and Keepers of the Parliament House.

WHEREAS it has been represented on the part of the macers, and likewise on the part of the keepers and under-keepers of the Parliament House, That by reason of the late statutes concerning bankruptcy, and other alterations which have taken place in the forms of proceeding before the Court, their fees and emoluments have fallen below what they were formerly:—The Lords of Council and Session having this day resumed the consideration of the several applications made by them, and being satisfied that they ought now to have some further allowance, do hereby enact and ordain, That from and after the date hereof, the macers shall be entitled to exact, in time coming, One shilling upon the first inrolment of every cause in the Outer-House, in addition to their present fees; the same to be collected by the keeper of the Outer-House rolls, along with his own fees:—And further, the said Lords of Council and Session do hereby authorise and require the deputy clerks of the bills to exact One shilling upon the presenting of every bill of suspension, and every bill of advocacy, for which he shall be allowed 2½ per cent. upon the sum so collected for his own trouble: And the said One shilling upon every bill of suspension and bill of advocacy, shall, at the end of each session, and of each vacation, be distributed among the said macers, and the said upper and under keepers of the Parliament

Parliament House, in such manner as shall be afterwards directed by the said Lords.—And whereas, the office of one of the macers, or the right of presenting him, is hereditary, and has been in use to be exercised by a deputy, the said Lords do hereby declare, that the fourth share of the said additional fees upon inrolments, and upon bills of suspension and advocacy, which is meant to be appropriated to the said macers, shall belong to the said deputy alone, and no part thereof to the principal; and that, in time coming, no deputy shall be received to officiate in the said office, until it be explained, upon oath, if required, what transaction has been made between the principal and the deputy, and until the Court is satisfied that the deputy is to have a sufficient and reasonable allowance for enabling him to exercise the duties of the office. 1791.

And appoint this act to be recorded in the books of sederunt, and to be printed and published, in the usual manner, for the information of all concerned.

Eodem die.

Act, regulating the Fees of the Keeper of the Inner-House Rolls.

THE Lords of Council and Session having taken into their consideration an application from the keeper of the Inner-House rolls, for ascertaining and regulating his fees,—they appoint and ordain, That from and after the date hereof, the fees and emoluments payable to him shall be as specified in the following table: and prohibit and discharge him to demand or receive any fees or gratuities, other than those contained in the said table, upon any pretence whatsoever:—And further, the Lords appoint and ordain the keeper of the said rolls to affix on the walls of the Outer-House, each day, before one o'clock, a roll of the single bills, in the order in which they are to be moved by the Lords the succeeding day; for the making up of which roll, he is expressly prohibited and discharged to ask or receive any other fee than that specified under article fifth of the following table.

I. That for every petition, information, memorial, condescendence, objection, answer, reply, duply, or any other paper in a cause appointed by the Lords, there shall be paid the sum of Five shillings each paper at inrolling. Short Roll.

II. That for every action of proving the tenor, sale, aliment, *cessio bonorum*, account of expence, report from a Lord Ordinary upon a remitted petition for money, getting up bond of caution, or any other cause, there shall be paid by the parties the sum of Five shillings in whole for each inrolment. Ordinary Action and Summar Rolls.

III. That for inrolling every prepared state, or memorial and abstract, in a sale, there shall be paid by each party the sum of Five shillings, or Ten shillings in whole; and no additional fee to be charged for memorials or prepared states. Concluded Cause Roll.

IV.

1791.

IV. That for a hearing in prefence, there shall be paid by each party the sum of Ten shillings for each day's pleading.

Single Bill
Roll.

V. That for every reclaiming petition refused by the Lords, without an answer, there shall be paid by the petitioner the sum of Two shillings and sixpence.

VI. That there shall be paid at the admission of every notary-public the usual fee of Five shillings.

VII. That in no case shall there be more than one inrolment before advising; but a cause shall not be considered as inrolled, although appearing in a list upon the wall, until it be entered in the book of the inner-keeper.

And appoint this act to be recorded in the books of sederunt, and to be printed and published in the usual manner, for the information of all concerned.

2d June 1791.

Sentence against John Cooper as a Fraudulent Bankrupt, and against John Fotheringham for assisting him.

THE Lords having this day resumed consideration of the cause at the instance of Messrs Barr and Ronald, merchants in Glasgow, and other creditors of John Cooper, late merchant in Aberdeen, with consent of his Majesty's Advocate, and the Lord Lyon, king at arms, against the said John Cooper, Jean Hunter, his mother, Agnes and Jean Coopers, his sisters, and John Fotheringham, residing at Aberdeen, with their interlocutor of 19th May last, finding John Cooper a fraudulent bankrupt, and John Fotheringham to have been aiding and assisting him in secreting his effects from his creditors; they ordain the said John Cooper to be carried back from the bar to the tolbooth of Edinburgh, therein to remain until Thursday, the 9th of June current; then to be delivered to the Sheriff of Edinburgh, to be transmitted from Sheriff to Sheriff, until he be imprisoned in the tolbooth of Aberdeen, therein to remain until the first public market-day in the town of Aberdeen; and grant warrant to the Magistrates of Edinburgh, the different Sheriffs, and the Magistrates of Aberdeen, to receive, transmit, and imprison and detain him accordingly: and upon the said market-day, grant warrant to and ordain the Magistrates of Aberdeen to cause carry him forth of the said tolbooth to the market-place of Aberdeen, where he is hereby ordered and appointed to be put upon the pillory, there to stand for a full hour, from twelve o'clock mid-day to one o'clock afternoon, having a label or paper affixed on his breast, with these words, *A Fraudulent Bankrupt*, and immediately thereafter they ordain the said John Cooper to be set at liberty: And in like manner ordain the said John Fotheringham to be carried back from the bar to the tolbooth of Edinburgh, there to remain for the space of three kalendar months from this date, and then to be set at liberty; and grant warrant to and ordain the Magistrates of Edinburgh to receive and detain him till the said day; and dispense with the reading

reading hereof in the minute-book, and ordain these presents to be recorded in the books of sederunt. 1791.

15th June 1791.

Act prolonging the Time for Lord Ordinaries sitting in the Outer-House.

THE Lords considering that their act of sederunt of 11th March 1788, intituled, "Act for prolonging the time of the Lord Ordinaries sitting in the Outer-House," expires on the 1st day of July next, do resolve to continue the same for another year; and, therefore, do hereby declare, that the said act shall continue in force until the 1st day of July 1792; and ordain this prorogation and act to be fixed on the walls of the Inner and Outer House, in usual form.

17th June 1791.

Resolution about reclaiming Petitions.

THE Lords observing that of late several applications have been made to them by short petitions, praying for leave to give in full reclaiming petitions at some future day, which is an evasion of former acts of sederunt, limiting the time for giving in reclaiming petitions, do declare, that they will not on any account receive such petitions in time coming; and prohibit and discharge the clerks to move or write upon such petitions; and appoint this resolution to be entered in the books of sederunt, and published on the walls of the Inner and Outer House, in the usual form.

Eodem die.

Committee to meet with the Magistrates and Advocates for repairing the Inner-House.

THE Lords appointed the Lords Eskgrove, Swinton and Henderland, as a committee of their number, whereof any two to be a quorum, and Lord Eskgrove to be convener, to meet with a committee of the Magistrates and Town-Council of the city of Edinburgh, and the Dean and a committee of the Faculty of Advocates, in order to take into consideration what improvements, alterations, or repairs, ought to be made on the Inner-House, to render it more convenient for the Lords, the Faculty, and other members of Court; and recommend to the committee to report their opinion to the Court with all convenient dispatch.

29th June 1791.

Committee for Charity Workhouse.

THE Lords continued the Lords Justice-Clerk, Eskgrove, Swinton, Henderland and Rockville, as their committee for managing the affairs of the Charity Workhouse for the ensuing year*.

* A similar committee is appointed annually.

1791.

9th July 1791.

Act ordaining Common Agents in Rankings and Sales to lodge a State of the Proceedings had in such Processes.

THE Lords having observed, from some late proceedings before the Court, that several processes of ranking and sale, now depending, have been a very long time in Court; and being desirous to know what is the present state of all the different processes of ranking and sale which are actually in dependence before them, do therefore hereby enact and ordain, That the common agent in every process of ranking and sale, now depending in the Court, shall, in the course of the ensuing vacation, betwixt and the 13th day of October next, make up an exact state or summary of the proceedings in such process or processes conducted by him, shewing at what period the same was first brought into Court, what steps have since been taken, likewise the extent of the funds and of the debts, as far as the same have been ascertained, and the present situation of the said process or processes, and the causes of any delay or obstruction which may have happened; subjoining thereto an account of the expences which have been incurred, and the sums drawn upon interim warrants, either by the creditors or the common agent; together with an account of what is still due to the common agent for disbursements and trouble in carrying on the business:—And the Lords ordain printed copies of the said state to be delivered into the boxes upon the said 13th day of October next, and copies thereof to be delivered to the known agents for the different parties appearing in the ranking and sale, or division of the price; the expence of which state is to be defrayed out of the common fund, and charged in the agent's account:—And ordain this act to be inserted in the books of sederunt, and printed copies thereof affixed on the walls of the Inner and Outer House.

28th February 1792.

Act concerning Replies made Perpetual.

THE Lords declare the act of sederunt of the 10th December 1777, concerning replies in the Inner-House, with the addition contained in the prorogation of 5th February 1783, which is here referred to, to be perpetual; and appoint intimation thereof to be made on the walls of the Inner and Outer House, in common form, and to be entered in the books of sederunt.

3d March 1792.

1792.

Committee for regulating the Affize of Bread with the Magistrates.

THE Lords nominate and appoint such of their number as shall happen to be in town or neighbourhood, during the ensuing vacation, to be a committee to meet with the Lord Provost and Magistrates of Edinburgh, or any committee to be named by them, in order to consider the present laws for regulating the affize of bread, and the proper way for putting the same into execution, and also the necessity and propriety of applying to Parliament for any new regulations on that subject, and authorise the committee to concur in what measures they may judge proper and expedient for that purpose.

14th June 1792.

Act removing the Market-Cross of Stirling.

ON the 26th May last, at moving the petition presented to the Court, for and in name of the Magistrates and Town-Council of the burgh of Stirling, praying, for the reasons therein mentioned, the Lords to authorise the petitioners to take down and remove the present Cross, &c. appeared Mr John Moir, counsel for the petitioners, and represented, That since the petition was given into Court and intimated, the Lord Henderland had been at Stirling on the Circuit, and took the trouble to inspect the situation proposed for the new market-cross; but another situation appeared to his Lordship more eligible, to wit, a pillar to be placed on the south, directly opposite to the present Cross, and set up between the street and the foot-pavement at letter C, as delineated upon a section, across the Broad Street of the burgh, produced, and this proposal of his Lordship had met with the approbation of all parties concerned; therefore craved, that the Lords would be pleased to approve of the proposed alteration, and declare that the said pillar shall be held as the market-cross, and that all executions and intimations made there shall be as valid and effectual as if such executions had been made at the old market-cross: Whereupon Mr Allan Maconochie, advocate, procurator for those complaining of the election of the petitioners, consented to what was proposed.

The Lords having resumed consideration of this petition, they approve of the foresaid proposal for the Magistrates of Stirling, and declare, That all executions and other intimations made at the pillar to be placed on the south, directly opposite to the present Cross, and set up between the street and the foot-pavement, at letter C, as delineated upon the section produced in process, across the Broad Street of the said burgh of Stirling, shall be held to be as valid and effectual as if such execution had been made at the old market cross; and they ordain these presents to be recorded in the books of
federunt,

1792. federunt, and to be published at the present market-crofs of Stirling, that the same may come to the knowledge of all parties concerned; and decern.

(Signed) ILAY CAMPBELL, *I. P. D.*

26th June 1792.

Act prolonging the Time for Lord Ordinaries sitting in the Outer-House, to 1st July 1793.

THE Lords taking into consideration, that their act of sederunt of 11th March 1788, intituled, "Act for prolonging the time of the Lord Ordinaries sitting in the Outer-House," expires on the 1st day of July next, do resolve to continue the same for another year; and therefore, do hereby declare, That the said act shall continue in force until the 1st day of July 1793; and ordain this prorogation and act to be affixed on the walls of the Inner and Outer House, in the usual form.

10th July 1792.

Order on Common Agents in Ranking and Sales depending, to lodge States.

THE Lords renew the act of federunt, and order of 9th July 1791, upon the common agents in every process of ranking and sale now depending in Court; and appoint printed copies of the states to be put into the boxes on the 11th of October next, and delivered to the known agents of the parties, as directed by the former order. The states now to be given in the processes, which depended at the date of their former order, to begin where the former states ended; and ordain this act to be entered in the books of federunt, and copies thereof affixed on the walls of the Inner and Outer House, in the usual manner.

22d December 1792.

Interim Keeper of the Register of Seifins of Renfrewshire appointed.

THERE was given in and presented to the Court a petition for and in name of James Hill, writer in Glasgow, which, by the interlocutor after insert, was appointed to be insert in this federunt book. The said petition humbly shewing, That some years ago, Mr Laurence Hill, writer to the Signet, lately deceased, was appointed keeper of the register of seifins for the shire of Renfrew, by commission from the Crown; and he named the petitioner his depute, who has accordingly acted in the regular discharge of the said office: That by the death of the said Laurence Hill, the said office has become vacant; and as no commission has yet been given out by his Majesty, it becomes necessary for the
lieges

OF THE COURT OF SESSION.

1792.
It is desired that some person should be appointed to the said office, so as the registration of the feifins, &c. which have been presented since the said Laurence Hill's death, and those which may hereafter be presented, may proceed as usual, until a new commission be issued by the Crown. The records and books of office are in the petitioner's possession.—May it therefore please your Lordships, to appoint an interim keeper of the register of feifins for the said county of Renfrew, in place of the said Mr Laurence Hill, deceased, until a commission for a new keeper shall be obtained from the Crown, or till further orders from your Lordships; and to grant to such interim keeper to be named by your Lordships, powers to record feifins, &c.

According to justice, &c.

AR. CAMPBELL.

Edinburgh, 22d December 1792.

The Lords having heard this petition, they grant warrant to, empower and authorise the petitioner to act as clerk to, and keeper of, the particular register of feifins, reversions and others, for the shire of Renfrew, with power to him to execute and perform all the duties and functions of the said office, as specified in the commission to the said deceased Laurence Hill, ay and until a new commission, appointing a clerk and keeper of the said register, shall be obtained, or until this warrant shall be recalled: And find the petitioner is entitled to the dues and emoluments of the office, during the time he officiates therein, in virtue hereof; for doing of which, an extract of this present act shall be a sufficient warrant; and ordain this petition, with this deliverance thereon, to be insert in the books of federunt, and also in the record of the said particular register for the shire of Renfrew.

ILAY CAMPBELL, I. P. D.

17th January 1793.

Papers to be boxed for the Collectors of Decisions.

UPON the suggestion of the Dean of the Faculty of Advocates, the Lords ordain the agents of this Court, in time coming, to put a copy of all printed papers presented to the Court, not only in a box to be prepared for the use of the Library belonging to the Faculty, but also in the box of each of the two Collectors of the Decisions; and appoint this order to be entered in the books of federunt, and published on the walls of the Inner and Outer House in the usual manner.

23d January 1793.

Visitation of the Magistrates of Edinburgh.

THIS day the Lord Provost, Magistrates and Town-Council of Edinburgh, saluted the Lords as usual in their formalities, and represented, That they had several matters of consequence to lay before

1793. fore their Lordships, regarding the police of the city, and entreated that the Lords would name a committee of their number to meet with the Magistrates, from time to time, as their affairs may require.

The Lord Provost also stated, That the Magistrates had used their utmost endeavours to discourage and suppress several unlawful associations and meetings among the lower classes of the people in this city, under pretence of reforming our present happy constitution, and that he had the satisfaction to inform the Court, that they had been very successful in preventing these unlawful and seditious meetings.

The Lord President, in name of the Court, made the following answer, which the Lords appointed to be entered in the books of sederunt, in order to perpetuate their entire approbation of the sentiments expressed by his Lordship.

My Lord Provost,

The whole Court will join me in opinion, that your Lordship and the other Gentlemen of the Magistracy and Council, are entitled to the thanks and approbation of your fellow citizens, for the activity and zeal which have marked your public conduct, at a time when, from various causes, it is well known that a more than ordinary exertion was required.

It was with equal surprise and concern that this Court learned, as well by the public voice of the country, as by his Majesty's proclamation and the proceedings in Parliament, that a spirit of sedition had arisen in different parts of the kingdom,—that alarms had been excited, and that designing or deluded men were busy in their endeavours to poison the minds of the people, to mislead them by falsehood, and to sow the seeds of anarchy, mischief, and disorder.

To us, the Judges of one of the Supreme Courts, whose official situation had intimately connected us with the law and constitution of our country in church and state, long ago established, and gradually (as we thought) improved, it could not fail to be unwelcome news, when we were told that the British constitution was all wrong; that it either rested upon unsound principles, or had fallen into decay; that the Legislature itself was corrupt, civil liberty extinct, and the people groaning under oppression. Happy it was that such daring assertions admitted of an easy detection.

Let any man who is not blinded by prejudice, look around him, and say, what marks or symptoms he can find here of an oppressed and a ruined people. Wherein does the misery consist? Is it in the extended commerce, manufactures, and agriculture of the country,—or in the costly and substantial edifices which are every day arising in the towns,—or in the additional numbers and increased wages and pay of artificers, workmen, and labourers of all kinds, produced by the flourishing state of the country, beyond all example in former times? Have we not complete proof that the industrious are happy; that Britain has attained to a high degree of prosperity; and in a word, that the cry of grievance, however applicable to the old state of France, and still more to the present, has no foundation here but in gross deception?

Let

Let me ask any candid man what indication he observes of want of *liberty* in any part of Great Britain? It was long ago pronounced from the highest tribunals both of England and Scotland, as a legal truth, "That the air of Britain was too pure for any person who was not free, to breathe in." Thus, the moment any subject of another country sets foot on British ground, his condition becomes altered; he is taken under the protection of the laws of Britain, and is a free man, whatever his former state may have been. Neither have we different laws for the high and the low,—the rich and the poor. The laws of Britain are the same to all; and the rights of all men are by them equally secured.

We have no occasion to plant the Tree of Liberty in this country; for, here it already grows and flourishes; and I trust in God, that no storm will ever shake it;

" Ipsa hæret scopulis, et quantum vertice ad auras
" Ætherias, tantum radice in tartara tendit."

I need not observe, that what is meant by *Liberty*, is not the power of doing wrong; but *civil liberty*, restrained by law, for the mutual benefit of all who enter into a formed society of any kind, which is the sense that even the most sanguine republican must necessarily affix to it, as without such controlling power, the bonds of society could not for a moment subsist, nor would life itself be secure.

The principle of the British Constitution is *liberty and property*, and a learned author, Dr Franklin, who surely was not unacquainted with the nature of a free government, lays it down in one of his books, "that *liberty and property* form the basis of abundance." But these terms are now changed upon us, and in place of them *liberty and equality* are sounded in our ears; a phrase of dark and mysterious meaning, well fitted to convey into ignorant minds those indistinct and inexplicable dreams of equal power, equal condition, and equal property, which, were it possible to realize them, would go at once to the annihilation, not only of all industry and all safety, but even of society in a savage state.

Those who associate in meetings to devise impracticable or unnecessary plans of reformation, sometimes from good design, and oftener from bad, affect to disclaim the pernicious tenets which have been imported to us from another country. They tell us, they have no view to disturb the peace of society, or to encourage licentiousness. Many of them, it is believed, speak sincerely when they use this language; but perhaps they are not aware that their actions have precisely that effect, whatever their intentions may be; for they have brought men together for the purpose of instilling prejudice into their minds, and making them believe that they feel grievances which do not exist. The consequence of this is obvious. They have not duly considered how dangerous it is to tamper with the minds and passions of uninformed men; and how impossible it is to say to a mob, "Thus far shall you go, and no farther."

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1793.

As to the proposition of those who have had the hardiness to preach *force* to the people, the example of France might have taught them, that were any such attempt to be made, they themselves would probably be the first victims. He must be ignorant indeed who does not know that a government founded upon the principle of *force*, is *tyranny*, whether the power be lodged in one individual, or in a few, or in many. What is there in the present state of this country, civil or ecclesiastical, that requires the interference of the people in any unusual manner? Is it not false that they are overburdened with taxes? Those who pay the taxes are able to bear them.—Debts ought surely to be discharged, and government must be maintained. A breach of public faith and credit would be attended with the instant ruin of many thousands of innocent families both at home and abroad, besides being most disgraceful in itself. But all this is a burden upon the wealth, the property, and the luxury of the country. Is it not obvious that the wages, the rate of labour, and the prices of work, by which the lower orders of the community are subsisted, do at this moment, and always must, bear a proportion to the riches of the country, and to the general means of living?

We are told that abuses have crept in. Where is the evidence of it? But granting the fact to be so, what is the use of a Legislature, but to pass new laws when they are needed, and to redress wrongs when the common law and former statute laws have not provided an adequate remedy? No human institution ever was complete or perfect at the first moment, and no one who knows any thing of the history of this country, can be ignorant that its constitution, instead of falling into a state of gradual decay, has been much *amended* by a variety of excellent laws, passed at different times, all tending to the same point, that of meliorating the condition of the people. Let me instance a few of those which relate to Scotland; for we have no occasion to go from home. Was it force or tumult that procured our Act of Grace, and other remedies in the case of *Civil Debt*, by which more ample provision is made for personal liberty in this part of the kingdom than exists even in England? to say nothing of our act 1701, which in criminal matters has been considered as the *Habeas Corpus* of Scotland.

Was it by any such means that in the reign of Queen Anne, our national form of worship was established upon a firm basis on the one hand, and toleration upon the other?

Were not the *personal services* of vassals abolished in the reign of George I.? Wardholdings and heritable jurisdictions in that of George II.? It may be said that these last were the fruit of two rebellions. True; but the rebellions had far other objects in view than obtaining any favourable change in the condition of the people. After they were quashed, it was seen that the power of the aristocracy in Scotland had been too great, and this evil was effectually cured by the laws last mentioned.

In the present reign, neither force nor fear occasioned the restitution of forfeited families; the emancipation of colliers and salters;

falters; the exclusion of revenue-officers in matters of election; the police-board laid aside; and the many encouragements given to arts, navigation, commerce and manufactures, by which this country has become great and flourishing. 1793.

Were it necessary to go further back, we would find, even in less enlightened times, many important laws passed for securing the subjects, both in property and person;—judges named for life, and made independent; leases of land *real*, and the interest of tenants secured; public registers introduced; schools and colleges endowed, by which learning was diffused, and liberality of sentiment promoted, which, joined to the duties of religion, form the true sources of genuine liberty and rational government.

These, and many other wholesome laws, were the spontaneous effect of free and deliberate discussion in Parliament; and it is not unlikely that other improvements may still be made in the same manner. But meetings of the people called to overawe the Legislature, and headed by men who, supposing their intentions to be good, cannot have the necessary evidence before them, must always tend to obstruct and defeat, never to forward, any wise measure. These men ought to be taught, that their meetings are directly in the face of law, as well as good government; and if it be true, that, like Catiline's conspirators, some of them have bound themselves by solemn oaths, the shocking impropriety of this must fill the mind of every sober and thinking man with indignation.

As to the liberty of the press, it must be consistent with the recollection of all of us, how much this has, of late years, overleapt its ancient boundaries; and surely those who have been so audacious in their attacks against all order—all law—all government—every thing decent, peaceable, and becoming,—and have not even spared religion itself, must acknowledge, that hitherto the liberty of speaking and writing, even to excess, has received little check from courts of law.

I have only to add upon the subject of elections, (another ample topic of popular discourse), that if the rights of voting in counties are to be altered or explained, and the ancient constitutions of our boroughs to undergo what is called a *reform*, and if the present time be proper for such disquisitions, this Court will earnestly pray that the following important objects may be kept in view. 1. That the fundamental principles of common law, and permanent justice between man and man, may be as little exchanged as possible for the untried theories of political expediency. 2. That the multiplication of law-suits may be avoided, or at least that some other court than this may be found for the decision of them. And, 3. That the morals of the lower classes of men in the country may be kept as free from the hazard of corruption, as circumstances will admit.

Let us, my Lord, be thankful for the blessings we enjoy. Let us be careful not rashly to shake the ancient fabric of our constitution; for it may be very difficult to rear a better one. Let us examine well every speculative plan of *reform*, a word which has

1793. of late been much abused; and let us remember, that we owe it to the memory of our forefathers, some of whom bled in the cause of liberty, and to the regard which every man ought to have for his character, the welfare of his family, and the good of his country, to hand down, whole and entire, to our posterity, those invaluable rights, which *we* possess, and which *they* ought to inherit, as the natural result of a free and a happy constitution.

Thereafter, the Lords continued the Lords Justice-Clerk, Alva, Elkgrove, Swinton and Henderland, as a committee of their number, of whom Lord Justice-Clerk to be convener, and any two to be a quorum, to meet with the Magistrates from time to time, and to give them assistance and concurrence in the management of the town's affairs and other matters, mentioned by the Lord Provost to the Lords.

25th January 1793.

Delegates appointed for naming Bursars on Mr Laurence Dundas's Mortification.

THE Lords chose the Lords Justice-Clerk and Stonefield to join a delegate from the Faculty of Advocates, and another from the writers to the Signet, in order to present three bursars to the Humanity Class in the College of Edinburgh, on the foundation of Mr Laurence Dundas.

29th January 1793.

Mr William Charles Little allowed to change his surname to Gilmour.

Unto the Right Honourable the Lords of Council and Session,

The petition of William Charles Little of Libberton, Esq;

Humbly Sheweth,

That by the decease of the late Sir Alexander Gilmour of Craigmillar, Bart. without lawful heirs of his body, the petitioner is now entitled to take up the succession to the estates of Craigmillar and Nether Libberton, as nearest lawful heir of tailzie and provision to the said deceased Sir Alexander Gilmour, Bart. conform to a deed of entail of these estates, of date 16th April 1683: That by the said deed of entail, it is, *inter alia*, provided and declared, "That the eldest heir-female that shall happen to succeed to the said lands, baronies, &c. including all other heirs-portioners, shall be obliged to marry a gentleman of the surname of Gilmour; or who, and the descendants of her body that shall happen to succeed there- to, shall be bound to assume the surname of Gilmour, and use and bear the designation and arms of the family of Craigmillar, as their own proper surname, designation and arms, in all time thereafter."

That,

That, in compliance with the above provision, the petitioner intends immediately to assume the surname of Gilmour, and to use and bear the designation and arms of the family of Craigmillar. But having the honour to be a member of the Court of Session, in consequence of his admission into the Faculty of Advocates, he considers it as his duty, before making any alteration upon the subscription which he has been in use to adhibit to the different papers drawn by him in the course of his practice before your Lordships, humbly to notify his intention of so doing: That as doubts may also be entertained as to the validity of his acts and deeds as a Justice of the Peace for the county of Mid-Lothian under any other subscription, he has been advised to make the present humble application to your Lordships, for leave to alter his subscription, and to assume the surname of Gilmour, in manner directed by the deed of entail above mentioned. 1793.

May it therefore please your Lordships, to authorise and allow the petitioner to alter his subscription in manner above mentioned; and to declare the surname of *Gilmour* a necessary part thereof, whether in public deeds or private transactions, or writing, in all time coming. According to Justice, &c.

HENRY ERSKINE.

Edinburgh, 31st January 1793.

The Lords having heard this petition, and advised the same, they authorise and allow the petitioner to assume the name of *Gilmour*, in terms of the entail referred to in the petition; and to add the same to his subscription in all time coming, both in public and private writings; and appoint this to be inserted in the books of federunt.

ILAY CAMPBELL, I. P. D.

2d February 1793.

Committee to report on the Draught of the Bankrupt-Act.

THE Lords appoint the Lords President, Justice-Clerk, Eskgrove and Swinton, whereof any two to be a quorum, and the Lord President to be convener, as a committee of their number, to consider the draught of a bill for more effectually regulating the management and distribution of the estates of bankrupts in that part of Great Britain called Scotland; and to meet with a committee to be named by the Dean and Faculty of Advocates, and Keeper and Commissioners of the Signet; and to report to the Court.

Appointment

1793. Appointment of an interim Sheriff-depute for the County of Ayr.

ON the 2d day of February current, the following petition was given into the Court, for and in name of James Dalrymple, Esq; Sheriff-clerk of the County of Ayr,

Humbly Sheweth,

That the vacancy of Sheriff-depute of the county of Ayr, occasioned by Lord Craig's being received among the number of your Lordships, on the 22d December last, has not yet been supplied. The loss which the petitioner suffers from this circumstance, as well as the inconvenience to the county at large, is too obvious to require observation. Every process, however important, must stand still, and no new process can be brought, till some person holds the office of Sheriff-depute, either by a commission from the King, or under an interim nomination of your Lordships. Many removings are depending before the Sheriff-court, which cannot be delayed without great inconvenience and loss; and processes of hypothecation, which must be brought within three months of the term of Martinmas, must necessarily become ineffectual unless they can be called before the middle of next month. Applications similar to this have been so frequent, that there can be no occasion for troubling your Lordships with precedents. Indeed, upon a former vacancy occasioned by the death of Mr Wallace, sometime Sheriff-depute of the county of Ayr, your Lordships appointed an interim Sheriff.

May it therefore please your Lordships, to appoint a proper person to act as interim Sheriff-depute of the county of Ayr, with power to hold courts, and exercise the other powers competent to the office, until a Sheriff-depute is appointed in the usual course; and to dispense with the minute-book. According to justice, &c.

GEO. FERGUSON.

2d February 1793.

The Lords having heard this petition, they supersede the same till Tuesday next.

5th February 1793.

The Lords having heard this petition, they authorise and empower Robert Sinclair, Esq; advocate, to exercise the office of Sheriff-depute within the county of Ayr, until a Sheriff-depute for the said county shall be nominated by the Crown, and he be superseded; and dispense with the minute-book; and ordain this warrant to be insert in the books of federunt.

15th

1793.

15th February 1793.

Order on Agents and Solicitors to box papers in the boxes of the Professor of the Scots Law, and the Collectors of the Decisions.

UPON application of the professor of Scots law, and likewise from the collectors of decisions, the Lords renew their act of sederunt of 29th November 1765, and their order of 17th January last, and appoint the agents and solicitors of this Court, in terms of these orders, to be careful to put all printed papers, presented to the Court, in the boxes of the professor of the Scots law, and collectors of the decisions; and appoint copies of this order to be transmitted to the writers to the Signet, and agents or solicitors; and the professor and collectors to inform the Court of those who shall neglect to give obedience to this order; and further, appoint the same to be affixed on the walls of the Outer and Inner House, in common form; and to be entered in the books of sederunt.

15th May 1793.

Act changing the Prison of Dunfermline, until Whitsunday 1794.

A Petition was presented by the Magistrates and Town-Council of Dunfermline, stating, that the petitioners finding it necessary to alter and enlarge the town-house and prison of Dunfermline, the roof was taken off in the course of last vacation; and as it will be unfit for the reception of prisoners for some time, the petitioners take the liberty of making this application to your Lordships.

Upon looking into the acts of sederunt, it appears that their Lordships interposed in a similar application from the town of Brechin, in 1789. The deliverance there given by the Court was as follows:

" March 10. 1789.

" The Lords having resumed the consideration of this petition, they find, That in all imprisonments in the county of Forfar, the imprisonments are to be made as if there was no prison in the town of Brechin, from the date hereof until the term of Whitsunday 1790: Remit to the Sheriff of the county to give such directions as he shall judge expedient for disposing of the prisoners, now imprisoned in the jail of Brechin, they always being at the expence of the transportation, and likewise of all other expences in the maintenance of prisoners, or otherwise, to

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which

1793. which they would be subjected, if they had remained in the prison of the town of Brechin; and decern and ordain this petition, with the deliverance thereon, to be engrossed in the books of sederunt."

The petitioners would have applied to your Lordships before beginning the repairs, but the Court had risen for the spring vacation before they had come to a final resolution, and it was judged necessary to begin the reparations as early in the season as possible. It is presumed, that the whole will be finished in the course of nine months from this date, though perhaps a month or two longer may be necessary. There is at present only one prisoner, a woman of the name of Macnaughton, confined upon a charge of murder, and who at present is lodged in the lower part of the prison, which, though secure enough, is, from the operations carrying on in the other parts of the building, and on other accounts, very uncomfortable and inconvenient. It may be observed, that the two next jails to Dunfermline, in the county of Fife, are those of Inverkeithing and Bruntisland; and it is submitted, that it would be proper to authorise the removing this prisoner to that of Inverkeithing, which is the nearest, and only between three or four miles distant. Therefore, craving it might please their Lordships to take the premises under their consideration; and to find, that in all imprisonments in the county of Fife, the imprisonments are to be made as if there was no prison in the town of Dunfermline, until the term of Whitsunday 1794; remit to the Sheriff of Fife to give directions for removing the above-mentioned Macnaughton from the prison of Dunfermline to the jail of Inverkeithing, or to such other prison as he shall think best; or to give such other relief in the premises as to their Lordships should seem meet. According to Justice, &c. AD. ROLLAND.

15th May 1793.

The Lords having advised this petition, they find, That in all imprisonments in the county of Fife, the imprisonments are to be made as if there was no prison in the town of Dunfermline, until the term of Whitsunday 1794; and remit to the Sheriff of the county to give such directions as he shall judge expedient for disposing of the prisoners now imprisoned in the jail of Dunfermline, either to transmit them to the jail of Inverkeithing, or to such other prison as he shall think best, they being always at the expence of the transportation, and likewise of all other expences in the maintenance of prisoners, or otherwise, to which they would have been subjected if they had remained in the prison of the town of Dunfermline; and decern and ordain this petition, with the deliverance thereon, to be engrossed in the books of sederunt.

ILAY CAMPBELL, I. P. D.

29th June 1793.

1793.

THE act of sederunt 11th March 1788, renewed till 1st July 1794.

Eodem die.

Sequestrations to be published in the Edinburgh Gazette.

THE Lords having taken into consideration, that by an act passed in the last session of Parliament, intituled, "Act for rendering the payment of creditors more equal and expeditious in that part of Great Britain called Scotland," it is, *inter alia*, enacted, That the Court, by the same deliverance which enacts sequestration of the estates of persons therein described, shall make an order upon the creditors to meet upon a certain day and hour, being not more than three weeks from that date, and as much sooner as circumstances may permit, to name an interim factor, if they shall think fit to appoint one; and failing their doing so, to devolve the interim care and custody of the effects upon the Sheriff-clerk; and that the Court shall by the same deliverance, make an order upon the creditors to meet upon a certain day and hour, being not more than six weeks, and not less than four weeks, from that date, for the purpose of naming a trustee, in whose person the said estate shall be vested, as therein mentioned; the said meetings to be at a convenient place, either where the bankrupt resides, or where his business is, or was last carried on, or as near it as possible, the place being also specified; which deliverance the petitioning creditor or creditors shall forthwith cause to be advertised, in a paper to be called *The Edinburgh Gazette*, to be printed and published by such person or persons as his Majesty, under his royal signature, or sign manual, shall, from time to time, think fit to appoint, on such day or days as the Court of Session shall, by an act of sederunt, direct and judge proper, for the more effectually carrying the said act into execution; otherwise the whole proceedings to be null and void: The said Lords, therefore, direct and appoint, that the said *Edinburgh Gazette* shall be printed and published twice in every week, to wit, Tuesday and Friday, to begin on Tuesday next, the 2d of July, and to continue to be published weekly on these days until the further orders of the Court: And that all sequestrations and meetings, in consequence thereof, shall be advertised in the said *Gazette*, otherwise the whole proceedings to be null and void, in terms of the said statute. And appoint this act to be printed, and published on the walls of the Inner and Outer House, in the usual manner, and entered in the books of sederunt,

5th

1793.

5th July 1793.

Committee appointed for making Regulations as to the late Bankrupt-act, and other purposes.

THE Lords appointed the Lords President, Swinton, Henderland and Craig, whereof any two to be a quorum, and the Lord President to be convener, as a committee of their number, to consider of the proper regulations to be made by the Court, in consequence of the act passed in the last session of Parliament, for rendering the payment of creditors more equal and expeditious; and likewise to consider of such regulations as may be thought proper for rendering the judicial sales of bankrupt estates before the Court more expeditious, and less expensive; to regulate the admission of agents or solicitors before the Court; the dues payable in the Bill-Chamber; the manner of admitting litigants to the benefit of the poor's-roll; and such other matters as may occur for regulating and expediting the proceedings of the Court; and to meet with Committees to be named by the Dean and Faculty of Advocates, Keeper and Commissioners of the Signet, and the Preses of the Society of Agents or Solicitors, for the purpose above mentioned; and to report.

13th November 1793.

Act dispensing with executing Edictal Citations at the Church-doors, and recording the Executions; and authorising one Advertisement in the Edinburgh Gazette.

THE Lords of Council and Session having considered, That by the act of sederunt, 23d of Nov. 1711, intituled, "Act anent bankrupts, the ranking of their creditors, and sale of their estates;" an edictal citation is required of the bankrupt's creditors not in possession, and all others having interest, according to certain forms, which, by experience, have been found to be attended with unnecessary expence, delay and inconvenience: Do therefore appoint and ordain, That in time coming, it shall be sufficient to execute the said edictal citations at the market-cross of Edinburgh, and pier and shore of Leith, without also executing the same at the church-door of any parish, or recording the executions in any register.

And having also considered, That, in consequence of the rules laid down in an act of the Parliament of Scotland, passed in the year 1681, intituled, "Act concerning the sale of bankrupts' lands;" the practice has been to execute letters of publication of the act of roup, not only at the market-cross of Edinburgh, and pier and shore

shore of Leith, but at the church-doors of the parishes where the lands lie, and of the six adjacent parishes, and also to cite the creditors of new, in the manner therein mentioned, but which act is now in so far repealed by an act of the Parliament of Great Britain, passed in the last session, for rendering the payment of creditors more equal and expeditious in that part of Great Britain called Scotland: The said Lords, in virtue of the powers committed to them by the said last-mentioned act, do further appoint and ordain, That, in time coming, it shall be sufficient to execute the letters of publication at the market-cross of Edinburgh, and pier and shore of Leith, and to intimate the interlocutor of the Court, granting warrant for such letters, by one advertisement in the newspaper intituled *The Edinburgh Gazette*. And the Lords ordain this act of sederunt to be affixed on the walls of the Inner and Outer House, in the usual form, and to be entered in the Books of Sederunt. 1793.

ILAY CAMPBELL, *I. P. D.*

26th November 1793.

Act authorising the Principal Clerks of Session to sign the Abbreviates of Adjudication under the late Bankrupt-act.

THE Lords of Council and Session having considered, That by an act, passed in the last session of Parliament, for rendering the payment of creditors in Scotland more equal and expeditious, they are authorised to establish such regulations as shall appear to them most proper for carrying the same into effectual execution: And whereas, by the 24th section of the said act, it is appointed, that an abbreviate of the order of Court, adjudging the estate of the bankrupt to belong to the trustee chosen by his creditors, shall be recorded within fifteen days of the date thereof, in the register of abbreviates of adjudications: The said Lords do hereby order and appoint the said abbreviates, before being recorded, to be authenticated by the subscription of one of the Principal Clerks of Session, upon each page, and thereafter to be recorded in the same manner as the abbreviates of the ordinary decreets of adjudication, signed by the judge, pronouncer thereof. And the said Lords ordain this act to be entered in the Books of Sederunt, and affixed upon the walls of the Inner and Outer House, in the usual form.

ILAY CAMPBELL, *I. P. D.*

1793.

4th December 1793.

Petition of the Lord Clerk-Register, with regard to an Ancient Paper found in His Majesty's State Paper Office; and Procedure thereon.

Unto the Right Honourable the Lords of Council and Session, the Petition of Lord Frederic Campbell, Lord Clerk-Register for Scotland;

Sheweth,

THAT the petitioner having received information that there was in His Majesty's State Paper Office at London, an ancient manuscript, on vellum, apparently relative to Scots affairs, judged it incumbent on him, as Lord Clerk-Register for Scotland, to have the manuscript minutely examined, in order to discover whether the information was well-founded. That the manuscript having been accordingly so examined, appeared to your petitioner to be a record exclusively relating to Scotland; whereupon the petitioner thought it his duty to make application to His Majesty, humbly requesting, that he would be pleased to order the manuscript to be removed to his General Register-House at Edinburgh. That in consequence of this application, his Majesty was graciously pleased to give his authority, signified by letter from the Right Honourable Henry Dundas, one of His Majesty's Principal Secretaries of State, to the keeper of the State Paper Office, to deliver the said manuscript into the hands of the petitioner, the petitioner giving his receipt for the same. That, in obedience to this order, the said manuscript was delivered at the said office to the petitioner, who has brought it to Scotland, and is desirous, and ready to deposit it among the other public records in his Majesty's General Register-House; and he makes this application to your Lordships, to pray that you will interpose your authority to the proper manner of depositing the same.

May it therefore please your Lordships, to take the premises into your consideration, and to authorise the foresaid manuscript to be by your petitioner deposited, as a record, among the other records of Scotland, in his Majesty's General Register-House, in such manner as to your Lordships shall seem proper.

According to Justice, &c.

ARCH. CAMPBELL *junior*.

4th

4th December 1793.

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The Lords having heard this petition, they remit the same to Lord Stonefield and Lord Swinton, to inspect the manuscript mentioned in this petition, to take evidence, if they think necessary, with regard to the authenticity thereof, and to report; and, at the same time, to report upon the authenticity of the volumes remitted to Lord Hailes and Lord Swinton upon the 2d December 1785, and that *quamp̄imum*.

ILAY CAMPBELL, I. P. D.

19th December 1793.

In pursuance of the remit of the 4th current, on the petition of Lord Frederick Campbell, Lord Clerk-Register for Scotland, the Lords Stonefield and Swinton having inspected the manuscript mentioned in that petition, received information from Lord Clerk-Register, and his depute, William Robertson, in regard to it, and compared the same with other writings in the Register-Office nearly of the same age; we are satisfied, that the book is an authentic record of writings, public and private, relating to Scotland; and therefore we give it as our opinion, that authority should be given to Lord Clerk-Register to deposit the manuscript among the records already under his charge.

With regard to the thirty volumes which were in the custody of the late Mr Roderic Macleod, writer to the Signet, we find, that, in consequence of the remit to Lord Hailes and Lord Swinton, of 2d December 1785, these were transmitted by Mr William Macleod-Bannatyne to his Majesty's General Register-house, and have remained there ever since, under the charge of the deputies of the Lord Clerk-Register; but, as it will take more time to examine them than we can spare at this time of the session, we have directed these deputies to make an inventory, with such observations and explanations as have occurred, tending to prove the authenticity of these books, and to furnish us with copies thereof; after which we will resume the consideration of this part of the business, and report our opinion upon it.

JOHN CAMPBELL.

JOHN SWINTON.

The Lords having resumed consideration of this petition, with the report made by Lord Stonefield and Lord Swinton, they approve of the report, appoint the manuscript volume mentioned in the petition, to be lodged among the other records in the custody of the Lord Clerk-Register and his deputies; and request the Lord President, in name of this Court, to return thanks to the Right Honourable Lord Frederick Campbell, Lord Clerk-Register of Scotland, for the trouble which his Lordship has taken in recovering to the public so valuable a book of the ancient records of this country. They further take this opportunity of expressing the high sense entertained by the Court of the benefit the public has derived from his Lordship's

1794. Lordship's unremitting assiduity and eminent services in the execution of his office as Lord Clerk-Register; and particularly in the great attention which he has bestowed upon the construction, fitting up, and completing of the new repository for the public records, as well as the internal arrangement of the business there; and, last of all, in having solicited and obtained, by the favour of his Majesty, a permanent establishment for the preservation of the building, and for defraying the necessary expence attending the security and safe custody of the records. And appoint the report, with this commission, to be inserted in the Books of Sederunt.

ILAY CAMPBELL, I. P. D.

13th February 1794.

Committee named to consider and report Regulations as to transmitting Processes to the Bill-Chamber from Inferior Courts.

A PETITION and representation having been presented to the Lords by John Bushby, Sheriff-clerk of Dumfries, against an interlocutor, pronounced by the Lord Ordinary on the Bills, upon a bill of advocacy, presented by Christopher Smith, writer and messenger in Dumfries, against Hugh Maxwell, writer in Dumfries, ordaining the Sheriff-clerk of Dumfries to transmit the process to the Bill-Chamber, within six days after intimation of the said order, the Lords, upon advising the said representation, with answers, and a report by the Clerks to the Bills, recalled the said order; and, at the same time, resolved to appoint a committee of their number, to consider of proper regulations to be followed in the Bill-Chamber, in time coming, with regard to transmitting of processes, extracts, or certified copies thereof, with such bills of advocacy, hereafter: And accordingly nominate the Lords Justice-Clerk, Eskgrove, Swinton, Henderland and Abercromby, as a quorum of their number, for the above purpose, any two to be a quorum, and Lord Justice-Clerk convener; and to report *quamprimum*.

February 26. 1794.

Act for the more speedy and effectual levying of Fines and Amends.

THE Lords of Council and Session, taking into their consideration, That the fines and amends imposed for enforcing the due observance of the rules and orders of Court, and for other just causes, are frequently evaded or not levied; and that the 10th article of the act of sederunt of the 11th of August 1787, respecting fines imposed in the Outer-House, has proved ineffectual: Therefore they do hereby repeal the same, and they do, in place thereof, enact and ordain:

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1794.
1mo, That all fines imposed, and amands incurred, in proceedings before the Lords in the Inner-House, shall be entered by one of the six Principal Clerks of Session, in a book kept by them for that purpose, immediately on any such fine being imposed, or amand incurred; and the payments thereof, when received by the said Clerks, shall, in like manner, be marked in the said book, which shall be patent to the Collector of the Poors' Funds, for the time being, on every Monday in the time of session, in order to his taking such lists or notes therefrom as he may think fit; and that he may be enabled to recover such fines and amands as are due and unpaid, and to use the means for that purpose hereafter mentioned: And that in the penult week of each winter session, the said Principal Clerks shall pay over to the said collector, all fines and amands that have been received by them during the preceding year, and have not been already applied by order of the Lords; and the same shall then be made a part of the annual distribution among the poor.

2do, That each of the six deputy-clerks of session, officiating in the Outer-House, and the clerks of the bills, shall keep a book, in which they shall enter all fines and amands imposed by any of the Lords Ordinary; which book, bearing the proper entry wrote therein, shall, within twenty-four hours after any fine has been imposed, be by them presented to the said Lord Ordinary for his signature thereto; and the said entries shall mention the cause of imposing the fine, and the name of the person who is liable in the same: But which fines shall not be leviable until the lapse of fourteen days after the dates of their entries in said book, respectively; during which time, and not afterwards, it shall be competent for the Lords Ordinary, on sufficient cause shown, to remit any such fines, by a note wrote on the of the entry thereof in the said book, and signed by the said Lord Ordinary, mentioning that such fine is remitted.

3tio, That when it shall be declared by an interlocutor of any Lord Ordinary, that in case any particular paper or writing shall not be produced or given in to the clerk to the process within a limited time, a certain amand shall be incurred; it shall be the duty of the said clerk, or of the clerk of the bills, when such order is made in the Bill-Chamber, forthwith to make an entry thereof in the books above mentioned, to be kept by such clerk; and the six depute-clerks of session, and the clerks of bills, respectively, and all persons acting under any of them, are hereby strictly prohibited and discharged, after expiry of the limited time, from receiving the paper or writing so ordered, without at the same time receiving the amand incurred, unless the Lord Ordinary shall have, upon cause shown to his satisfaction, allowed such paper or writing to be received without payment of the amand, by a note to that effect, written in the said book, and signed by him; and when any of the said clerks shall receive payment of any fine or amand, he shall immediately mark the payment in the said book as made to him.

1794.

4^{to}, That it shall likewise be the duty of the said six deputy-clerks of session, upon every Monday in the time of session, and of the clerks of the bills, on the last Monday of every month throughout the year, to present to the said collector of the poors' funds, their said books, containing the foresaid entries, for his information, and then also to pay over to him the whole fines and amands received by them since the preceding exhibition to him of the said books.

5^{to}, That the said collector of the Poors' Funds shall keep a book, in which he shall regularly enter, of their respective dates, the payments of all fines and amands received by him from any of the clerks above mentioned, or recovered by himself from the persons liable in such fines or amands; and shall likewise enter therein, from time to time, lists of all fines imposed, and amands incurred, and not remitted, payment whereof has not been then received, as appearing from the several books of the clerks; and immediately thereafter, he shall apply to the Lord Ordinary officiating on the bills, for captions or warrants, directed to the macers of Court, for recovering the same, by imprisoning the persons respectively liable therein, until payment: Which warrants the said Lord Ordinary is hereby authorised and required to grant, upon production to him of a certificate under the said collector's hand, bearing, That such fines or amands are due by the persons therein mentioned; and which warrants the collector shall forthwith cause to be put in execution: And, on the penult week of each winter session, the said collector shall lay a complete state of his accounts for the preceding year, together with his said book, before the Lord Ordinary on the bills, for his inspection, and to the end that the amount of the sums in the collector's hands may be ascertained, and divided among the poor in the usual manner.

ILAY CAMPBELL, *I. P. D.*

24th May 1794.

Sentence of Banishment against Ninian Scot for Vitiating a Bill.

IN the conjoined processes, Ninian Scot of Carcoside, against Christian Pate and others; and she and others against the said Ninian Scot; the Lords of Council and Session having resumed consideration of this cause, procedure held therein, and writings produced, particularly the bill, dated Greenbank, 23^d May 1786, drawn by Ninian Scot, upon and accepted by Thomas Pate, with the judgment of the Court, finding, that the said bill was vitiated, the word *two* having been changed into *five*. Against which judgment the said Ninian Scot entered an appeal to the House of Peers; but which, upon his own petition, and payment of ten guineas as costs, he was, upon the 6th day of March last, allowed to withdraw; and having also considered the attestation of Mr Benjamin Bell and Mr Harkness,

Harkness, surgeons, with regard to the said Ninian Scot's state of health, they find the said Ninian Scot guilty, actor, art or part, of vitiating the aforesaid bill, and of using the same in judgment, knowing it to be vitiated: Therefore, the Lords ordain the said Ninian Scot to be carried from the bar and incarcerated in the tolbooth of Canongate, therein to be detained till the 4th day of June next, and then to be set at liberty: Moreover, the said Lords of Council and Session banish the said Ninian Scot from Scotland for the full period of seven years, to be computed from the 4th day of July next; with certification to the said Ninian Scot, that if he shall return to, or be found in, Scotland at any time within the said period, he shall be apprehended, and transmitted from Sheriff to Sheriff until he be lodged in the tolbooth of Edinburgh, and shall then be transported beyond seas for the term of seven years, to such place as his Majesty, with advice of his Privy Council, shall appoint; and grant warrant for all proper officers of the law for carrying this sentence into execution; and ordain the same to be recorded in the Books of Sederunt.

ILAY CAMPBELL, *I. P. D.*

27th June 1794.

THE Act of Sederunt 11th March 1788 renewed till 1st July 1795.

11th July 1794.

Act concerning Judicial Sales and Rankings at the instance of Creditors.

THE Lords of Council and Session, considering that the forms observed in processes of judicial sale, and rankings at the instance of creditors, require to be further amended and regulated in certain particulars, do therefore, in exercise of the powers committed to them by various statutes, and particularly by an act passed in the last session of Parliament, intituled "An act for rendering the Payment of Creditors more equal and expeditious in that part of Great Britain called Scotland," appoint and ordain as follows:

1mo, That whereas, by the act of sederunt 17th January 1756, for regulating the sale of bankrupt estates, Art. 1. and 12., and by the act of sederunt 9th August 1783, certain notices are appointed to be given by publication in the Edinburgh Evening Courant and Caledonian Mercury, the said notices shall in time coming be given by advertisement in the newspaper called the Edinburgh Gazette, in place of the other two newspapers before mentioned.

2do, That whereas the said act of sederunt, 17th January 1756, § 2., authorises a meeting of the creditors to be appointed by the Lord Ordinary for choosing a common agent, and prescribes a certain mode of proceeding: And whereas such elections have too frequently

1794. frequently been attended with disputes and litigation, which ought as far as possible to be avoided : The Lord Ordinary shall, in time coming, appoint intimation of the time and place of such meeting, for the choice of a common agent, to be made in the minute-book, and by one advertisement in the Edinburgh Gazette, at least fourteen days previous to the day of meeting ; and the person officiating as clerk to the meeting, shall report the person as duly chosen common agent, who is voted for by a majority of creditors in value, exclusive of penalties and bygone or current interests, (unless in so far as bygone interest shall have been accumulated by a decree of adjudication) ; and in computing the amount of such debts as consist of annuities or liferents, they shall be estimated at ten years' purchase of the annuity or liferent ; providing always, that no creditor shall be allowed to vote by himself, or by his agent or attorney, unless his ground of debt, with an oath of verity upon the same, by the creditor himself, if in Britain, or an oath of credulity by the agent or attorney, if his constituent happens to be out of Britain, shall have been lodged in the hands of the clerk to the process, at least twenty-four hours previous to the time of meeting.

3rd, That no person shall be capable of being elected as common agent, who is himself one of the creditors, or who, with respect to the common debtor, is a conjunct or confident person ; and the common agent, when chosen, shall take an oath *de fidei*, before the Lord Ordinary, at the first calling after his election is confirmed ; and the person so named shall not, after his appointment as common agent, be entitled, either by himself, or in the name of a clerk or confidential person, to act as the private agent of any particular creditor, or class of creditors, or of the common debtor, in any matter relative to the ranking, or to the division of the price, while the same are in dependence before the Court, otherwise he shall become, *ipso facto*, disqualified from acting as common agent.

4th, That in case the election of the common agent shall happen to be disputed, no representation shall be competent against the interlocutor of the Lord Ordinary, determining upon the merits thereof, and only one reclaiming petition shall be allowed ; the person approved of by the Lord Ordinary being in the mean time entitled to act, and the person whose election shall ultimately be declared, being entitled to recover from his competitor full expences, no part of which shall be chargeable against the common fund.

5th, That the common agent shall keep a minute-book of his proceedings, and of his official correspondence, open to the inspection of all concerned ; and in respect that he derives his authority from the Court, he shall at all times be amenable to answer for his conduct, by summary application to the Court at the instance of any party interested, the Court being entitled, upon cause shown, either to remove him from the office of common agent, and to appoint a meeting of the creditors to choose another, or to give such other redress as the circumstances of the case may require.

6th, That the common agent, after his nomination is confirmed by the Lord Ordinary, shall take the most effectual steps for ascertaining the nature and extent of the subjects belonging to the common

mon debtor, together with the incumbrances affecting them; in order to which, he shall, if necessary, cause search the public registers, and apply to the Lord Ordinary for letters of first and second diligence against havers.

1794.

7^{mo}, That immediately after the last term for producing the interests of the creditors is elapsed, the common agent shall make up a full state thereof, and of the objections thereto, and the questions arising thereon, distinguishing those objections or questions which go to the enlargement of the common fund, or to prevent its diminution, from those which only affect the interest of particular creditors, or classes of creditors, in competition with one another, and also suggesting the order of ranking; which state shall be printed, and copies of it put into the Lords' boxes, and distributed among the creditors, or their known agents; and in case thereafter any new interest shall be produced, or any new objections or questions arise, a supplementary state, or states, shall be made up and communicated by the common agent in the same manner, pointing out the variations thereby occasioned: He shall also, in these states, set forth whether there is any probability of a reversion to the common debtor, and in what view, or different views, there may be a prospect of such reversion.

8^{vo}, That it shall not be lawful for the common agent to discuss, at the expence of the estate, any questions in the ranking which relate only to the interest of particular creditors, or classes of creditors, in competition with one another, and which do not affect the common fund; excepting only, that he shall lay the whole state of the ranking before the Lord Ordinary, as directed by the act of sederunt 17th January 1756, and by this present act, in order that his Lordship may give judgment thereon, or take the same to report; but it shall then be left to the individual parties interested and their agents, to follow out those questions which are of the description already mentioned; the common agent being at the same time entitled, as he is hereby particularly authorised and enjoined, to take all necessary measures for obliging those who have the conduct of such questions to proceed in them without delay.

9^{no}, That in case there shall appear to be a clear reversion for the postponed creditors, or for the common debtor, after discussing preferable claims, it shall be lawful for those interested in such reversion, if they are agreed among themselves as to the distribution or disposal of it, to put a stop to further litigation, by an application to the whole Court, and obtaining an order to that effect, the said application being intimated to the common agent, or any other person or party engaged in the said unnecessary litigation.

10^{mo}, That so soon as the Lord Ordinary has pronounced his interlocutor on the said state, or given a deliverance, taking the same or any part thereof to report, the said interlocutor or deliverance shall be intimated in the minute-book, that the different creditors or their agents may attend to their interest in the future progress of the business, and appear by their own counsel, if they shall think fit so to do.

11^{mo}, That whereas, in discussing objections, it is ordered by articles 9. and 10. of the said act of sederunt, 17th January 1756, that

H

besides

1794. besides advising objections, answers, and replies, the Lord Ordinary shall appoint a hearing at the bar; and whereas, for the most part, either the one or the other of these is sufficient, it shall be competent to the Lord Ordinary, in time coming, upon advising the objections and answers, to order such further pleadings, either in writing or *viva voce*, as he shall think the case requires, the same being always limited to a short time, under a penalty, and only once allowed, without any liberty of representing.

12^{mo}, That in case, at any time hereafter, a creditor shall, upon cause shown, be reponed against a decree of certification in a ranking and sale, he shall be obliged to pay the whole expence occasioned by the delay, and by the production of a new interest, as the same shall be ascertained by the Court, or by the Lord Ordinary; and the clerks are hereby prohibited from taking in any interest or claim, either before or after the decret of certification is extracted, without an oath of verity, if the creditor is resident in Great Britain, or an oath of credulity by the factor or agent for creditors residing or happening to be elsewhere.

13th, That whereas it has been usual for the preferable creditors to apply for interim warrants upon the factor for payment of sums due to them; and sometimes by such interim warrants, preferable creditors get the whole or most part of the sums due to them, before the order of ranking is finally settled, which practice has by experience been found to be attended with inconvenience; no creditor, however preferable, shall, in time coming, be entitled to draw by interim warrants any sum out of the common funds, without sufficient cause shown to the Court, and in no case shall draw full payment, and no interim warrant shall be granted before decret of certification is extracted, except for interest or annuities.

14th, That in order to prevent as far as possible any undue delays in carrying on judicial sales and rankings, the creditors or their agents, at the meeting for election of a common agent, shall name a committee of three of their number, (if they think fit so to do,) whose duty it shall be, if the proceedings are not finally closed within two years after commencement of them, to inquire into the reasons thereof; and the common agent shall, at any rate, with or without the concurrence of such a committee, print and give in to the Court, and distribute among the other agents concerned, a short minute, stating the then situation of the process, and what have been the causes of the delay; and a similar minute shall be given in at the end of every year thereafter till the proceedings are closed, unless dispensed with by the Court.

15th, That whereas the said act of Parliament lately passed authorises the Court to make regulations for lessening the number of adjudications, pending a judicial sale, and facilitating the *pari passu* preference of creditors: And whereas, in the case of judicial sale at the instance of apparent heirs, it has been found that the decree of sale has the effect of an adjudication for behoof of the whole creditors: It shall be in like manner a rule in time coming, that in processes of sale and ranking at the instance of creditors, the decree of sale shall have the same effect, and shall operate as a common decree

cree of adjudication in favour of all the creditors who shall be included in the decree of ranking and division; and it shall not be necessary in time coming for any of the creditors ranking as aforesaid, to lead separate adjudications against the estate, in order to entitle them to receive payment; neither shall such adjudications be necessary for the security of the purchaser; the decrees of sale, ranking, and division, being in effect an adjudication of the estate for all the debts therein contained. And appoint this act to be recorded in the Books of Sederunt of the Court, and printed and published in the usual manner. 1795.

ILAY CAMPBELL, *I. P. D.*

11th March 1795.

Report on Manuscripts lodged by Mr William Macleod-Bannatyne, Advocate.

THE Lords Stonefield and Swinton, in obedience to the remit from the Lords, dated 4th December 1793, having inspected the twenty-nine manuscript books mentioned in the said remit, which were lodged there by William Macleod-Bannatyne, Esq; advocate, on the 2d December 1785, report as follows:

1st, That those manuscript books, (all of which relate to the thirds of benefices,) are of two sorts, viz. 1. Books of Modification and Assignment, which specify the stipends modified, assigned and paid, to the different superintendents, commissioners, ministers and readers, throughout the kingdom; these are twenty-two in number: And, 2^{dly}, Books intituled, "Of Assignment and Superplus," which exhibit a regular account of the receipt and expenditure of the thirds, from which the superplus results, and which are seven in number, as will appears from the following statement.

The 1 st is the book for the year 1576,	The 11 th is the book for the year 1591,
2 ^d , - for the year 1578,	12 th , - for the year 1592,
3 ^d , - for the year 1579,	13 th , - for the year 1594,
4 th , - for the year 1580,	14 th , - for the year 1595,
5 th , - for the year 1585,	15 th , - for the year 1596,
6 th , - for the year 1586,	16 th , - for the year 1597,
7 th , - for the year 1588,	17 th , - for the year 1599,
8 th , - for the year 1589,	18 th , - for the year 1601,
9 th , - for the year 1590,	19 th , - for the year 1607,
10 th , Another ditto for the	20 th , - for the year 1608,
year - - 1590,	21 st , - for the year 1614,
appearing to be a duplicate	22 ^d , - for the year 1615.
thereof.	

The Books of Assignment and Superplus.

The 1 st is the book for the year 1594,	The 4 th is the book for the year 1605,
2 ^d , is - for the year 1603,	5 th , is - for the year 1606,
3 ^d , is - for same year, 1603,	6 th , is - for the year 1608,
appearing to be a duplicate	7 th , is - for the year 1609.
of the preceding.	

2^{dly},

1795.

2dly, That besides the tenor and contents of the two-and-twenty volumes first mentioned, and the character in which they are written, which afford the strongest presumption of their being originals, and genuine books of public record, the Lord Register's deputes for keeping the records informed us, that there had been from time immemorial, among the public records, some books containing the accounts of various "Collectors General of the Thirds of Benefices;" and, particularly, for the following among other years, viz. for the year 1576, 1578, 1579, 1580, 1585, 1586, 1589, 1590 and 1595; and that for the same years, there are among the volumes received from Mr Macleod-Bannatyne, Books of Modification and Assignment: That by comparing some of these Books of the Collectors General, which were laid before us by the said keepers of the records, with the Books of Modification and Assignment for the same years, received from Mr Macleod, the latter are evidently vouchers of the former. As, for example, introductory to the statement of the discharge of money in the Books of the Collectors General, there is written as follows, viz. "Of the quhilk haill sowme before chargit, the comptare aught to be defeased of the sowmes after specifiet, given and disponit be our Soverane Lord, with advise of the Commissionaris for the kirk-depute with Lordis of Counsall to accord thairupoun, and be thair common agreement assignit to the superintendentes, commissioners, ministers and readairs, within the bounds of the dioceis after mentioned, extending ilk diocie to the sowmes particularlie after specifiet in the Book of Modificatioun and Assignment of thair stipendis, divyding the saidis diocis severallie be thameselfis, and evrie diocie containand the particulare names of the said superintendentes, commissioners, ministeris and reidaris, with the particulare modifiatioun and assignatioun of thair stipendis for the zeir complit, beginnand and makand ane haill zeir, schawing and producit before the Lords Auditouris of the Checker, and conferrit and calculat be thame, and fundit to extend to in evrie diocese to the sowmes particularlie following at mair length, proportis; that is to say." Then the same Collector General's Book proceeds to state the discharge thus, viz. "To the commissionaris, ministeris and reidaris, within the diocie of Caithness, according to the modifiatioun and assignatioun of the said buik, the zeir complit, 1^m. 1^c. xviii^l. 2p^t. d."

After which similar articles follow for the diocie of Murray, the diocie of Aberdeen, &c. &c.; and on comparing the total sum thus generally stated in the Collector General's accounts for each diocie, with the total amount of the particular assignments for the same diocie, specified in the Books of Modification and Assignment received from Mr Macleod, we find them to agree.

In fact, therefore, the said Books of Modification and Assignment appear to be vouchers of the Accounts of the Collector's General for the corresponding years, and must have the same authenticity with them.

3dly, As to the other twelve Books of Modification and Assignment received from Mr Macleod, viz. those for the years 1588, 1591,

1591, 1593, 1594, 1596, 1597, 1599, 1601, 1607, 1608, 1614 and 1615: although there be in the general register-house no books of the Collector General's corresponding with these twelve of Mr Macleod's, yet the perfect similarity of these twelve books, in every particular, to those other Books of Modification and Assignment, whereof the authenticity is established by the corresponding books of the Collectors General above mentioned, puts the authenticity of the said books also beyond dispute. The same is further confirmed by this circumstance, that they repeat the same incumbents and stipends the others contain, except where variations may have been occasioned by deaths and translations of the former incumbents, and by some minute alterations in the stipends, that may have been made by annexation, disjunction, and new erections.

1795.

4th, and *lastly*, As to the second sort, viz. the seven Books of Assignment and Superplus for the years 1594, 1603, 1605, 1606, 1608, 1609, they relate to the same subject of thirds of benefices, as has been already said, are unattended with any circumstance of suspicion, and bear the like internal appearance of authenticity with the others; we therefore think they too ought to be regarded as public records.

6th March 1795.

JO. CAMPBELL.
JO. SWINTON.

Petition Lord Clerk-Register for having certain Records deposited in his Office, and Procedure thereon.

*Unto the Right Honourable, the Lords of Council and Session,
The Petition of Lord Frederick Campbell, Lord Clerk-Register for Scotland;*

Sheweth,

THAT the secretary's register of feifins was introduced, by an act of convention, of this date.

July 31. 1599.

On the 3d of November, the same year, a supplication was presented to the Court of Session, by Elphinston of Barntown, the secretary, beseeching, " That be ane special act, your Lordships will
" authorise, appreive and interpone your authority, and consent to
" the act foresaid, and gif command that the samyn be registrate
" in your buiks of federunt, and publicatioun to be maide thair of,
" in the utter tolbuith, and otheris places neidful, qwhair-through
" nane pretend ignorance of the samen," &c. The Lords accordingly " authorise, appreive and allow the foresaid act, in all and
" sundry the points and heids thaireof, and interpone thair authority thairto, and gifs command, that the samyn be registrat," &c.

Nov. 3. —

That, after this supplication, and the act of federunt following on it, it was judged necessary to give the institution a regular parliamentary sanction, which was done by a public statute.

Nov. 15. 1600.

I

That

1795. That the secretary's register was, by another act of convention, abolished, from and after this date; and this act of convention was ratified by an act of Parliament.
- Jan. 27. 1609. — That the register of feifins was at last established on its present footing, by act of Parliament, 28th June 1617.
- June 24. —
- Oct. 29. 1794. That, on this date, there were, in the General Register-House, Books of the Secretary's Register, for the following shires :

Aberdeen,		Kincardine,
Ayr,		and
Banff,		Linlithgow ;

all apparently complete.

P E R T H :

From the 3d August 1601, to its abolition. The two, or perhaps three, first books being awanting.

F I F E A N D K I N R O S S :

In one district, from 20th January 1603, to its abolition. The three first volumes are lost; that beginning 20th January 1603 being entitled, *The 4th Book of the Secretary's Register*.

For the Shires of

1. Caithness,		4. Cromarty,
2. Sutherland,		and
3. Ross,		5. Inverness,

which are all comprehended in one district, there is only a single book, beginning the 3d February 1606, and ending 3d May 1608.

That, on the said 29th of October 1790, there were, in the General Register-House, no books of the secretary's register for the following shires :

Edinburgh,		Kirkcudbright,		Stirling,
Haddington,		Wigton,		Clackmannan,
Berwick,		Renfrew,		Forfar,
Roxburgh,		Argyle,		Elgin and Forres,
Selkirk,		Bute,		and
Peebles,		Dunbarton,		Orkney.
Dumfries,		Lanark,		

That, on Thursday the 30th October 1794, Mr Hill, bookseller in Edinburgh, delivered into the General Register-House, the 1st, 2d, 3d, 5th, 7th, 8th, 9th and 10th books of the secretary's register, for the districts of Edinburgh and Haddington.

Book

Book 1st begins 7th December 1599.
Ends 24th August 1601.

The 2d begins 16th April 1602.
Ends 29th August 1603.

The 3d begins 29th June 1603.
Ends 6th March 1604.

The 4th is wanting.

The 5th begins 28th July 1604.
Breaks off at 15th June
1605,—the eleven con-
cluding leaves being torn
out.

The 6th is wanting.

Book 7th begins 10th April 1606.
Ends 26th Decem. 1606.

Book 8th begins 28th Dec. 1606.
Ends 10th July 1607.

Book 9th begins 12th July 1607.
Ends 31st March 1608.

The 10th begins 1st April 1608.
Ends 20th January 1609;
But the 23rdth., and fif-
teen following leaves are
torn out.

1795.

That there appears no books between the 24th August 1601, when book 1st ends, and the 16th April 1602, when book 2d begins.

That the petitioner thinks it his duty to lay these facts before your Lordships, that you may consider them, and give him directions as to the disposal of these books, which have so come to his office.

May it therefore please your Lordships, to consider the premisses, and to authorise the petitioner to deposit the forefaid books among the records, under his charge; or to give the petitioner such other directions thereanent, as to your Lordships shall seem meet.—According to Justice, &c.

ARCH. CAMPBELL *junior*.

The Lords (4th December 1794) having heard this petition, they remit the same to Lord Eskgrove and Lord Swinton, as a Committee of their number, to inspect the volumes mentioned in this petition, and to report their opinion as to their authenticity; and to take any evidence relative thereto, which they shall judge expedient or necessary.

ILAY CAMPBELL, *I. P. D.*

The Lords Eskgrove and Swinton, in pursuance of the remit made to them by the Lords on the petition of Lord Frederick Campbell, Lord Clerk-Register, of date 4th December 1794, have carefully inspected the eight manuscript books lately recovered and mentioned in the said petition; and have also inspected sundry other manuscript volumes, which are and have been kept in the General Register-House from time immemorial, and have been held and used as authentic original books of the record, called the Secretary's Register; and have compared therewith the said eight volumes already mentioned; and they do report thereupon as follows:

1mo, That the said eight books are of the same size and binding, filled up, subscribed and docketed in the same manner, and containing similar copies of the same kind of deeds and instruments, as the authentic volumes of the secretary's register for other shires
and

1795. and districts, lying in the Register-House, and bear every external mark and appearance of being likewise genuine original records of seifins, &c. for the sherifffdom of Edinburgh, and constabulary of Haddington, kept under the direction of the secretary of Scotland at the periods of their dates.

2dò, That the first or earliest of the said eight books or volumes, begins 7th December 1599, and ends 24th August 1601. On the first page of it, these words are written: "The first register of the secretarie of the sherifffdom of Edinburgh principal, and within the constabulary of Haddington. (Signed) A. Laute." Every leaf of the book is subscribed at the bottom G. Billye, and at the end of the last leaf there is written as follows: "This buik contenis three hundred leafis; ilk leaf yairof markit be me Gilbert Billie, secretar-deput, togidder with my fing at ilk XXV leif yairof, as use is in the lyke. Subscrivit with my hand at Edinburgh, ye XX of November 1599 zeris. (Signed) G. BILLYE."

The second book begins 16th April 1602, and ends 29th June 1603. At the beginning of it is written, "The second register of the secretarie of the sherifffdome of Edinburgh, principal, and within the constabulary of Haddington. (Signed) A. Laute." Every tenth leaf is subscribed "P. Sterling;" and from the 222d leaf to the end of the book, every instrument recorded is also subscribed at the end "A. Laute." And where in that part of the book an instrument happens to end at a tenth leaf, both the subscriptions A. Laute, and P. Sterling appear on the same leaf or page, as on the 230th, 240th and 360th leaves; and on the last page the signature A. Laute stands at the end of the record, and immediately under it is written a doquet subscribed P. Sterling, in these words: "This buik contenis three hundrethe fourscoir seventeen leaffis; ilk tent leaf thairof markit be me Patrick Sterling, servitour to my Lord Secretar, at the said Lordis command. Subscrivit with my hand at Edinburgh, the secund of Febrwary 1603. (Signed) P. STERLING."

The third book begins 29th June 1603, and ends 6th March 1604. At its beginning there is written, "The thrid register of the secretarie of the sherifffdom of Edinburgh, principal, and within the constabulary of Haddington. (Signed) A. Laute." Every leaf of it is subscribed A. Laute. And on the end of its last leaf these words are written: "This book contenis three hundreth fourscoir and ten leiffis; ilk leif thairof markit be me Adam Laute, writer-depute, and keeper of the register of the secretary of the sherifffdoms of Edinburgh principal, and Edinburgh within the constabulary of Haddington, according to the commission gevyn to me thairanent. (Signed) A. LAUTE."

The fourth book of this register is still wanting. But the next book of those newly recovered begins 28th July 1604, and ends 15th June 1605. The 367th, and all the following leaves of this volume, apparently ten in number, have been torn out; and consequently

quently the doquet written on the last leaf of all the other volumes, ^{1795.} does not appear upon this one. But it bears the usual doquet or title at the beginning of it, in these words: "The fifth register of the secretarie of the sherriffdome of Edinburgh principal, and within the constabulary of Haddington. (Signed) A. Laute." And every leaf of the book still extant, bears the same signature, A. Laute.

The sixth book of the register is likewise still wanting; but the next volume recovered begins 10th April 1606, and ends 26th December 1606. It bears doquets both at the beginning and end of it, precisely similar to the doquets upon the volume titled the fifth book of this register above inserted; and both these two doquets, and every leaf of the book bear the same signature, A. Laute. The first doquet or title of it bears it to be "The seventh register of the secretarie," &c.

The next volume, which is intituled, "The aucht register of the secretarie," begins 28th December 1606, and ends 10th July 1607.

The subsequent one is intituled, "The nynth register of the secretarie," &c. It begins 12th July 1607, and ends 31st March 1608.

And the last of the said books, intituled, "The tenth register of the secretarie," &c. begins at 1st April 1608, and ends 20th January 1609. But the 225th, and twenty-five following leaves, have been torn out.

These three last-mentioned books likewise bear doquets at beginning and end, in the same terms with those upon the volume intituled "The fyft book," above recited; and both the two doquets on each of these volumes, and every leaf of the books, also bear the same subscription, viz. A. Laute.

And 3dly, In addition to the evidence of the authenticity of the said eight books or volumes of the secretary's register newly recovered, arising from the doquets and subscriptions which they bear, and their correspondence in form, appearance, and contents, with the books of that register for other shires, already in the General Register-House, it is to be noticed, that, from an examination of these last-mentioned books, it appeared that sundry volumes of them are marked in the like manner, by the subscriptions of G. Billye and P. Sterling, by whom the first and second books of the register for the shire of Edinburgh newly recovered are marked; and upon comparison of the handwriting of the doquets, and the signatures of those names upon both of those registers, they appear evidently to be the handwriting and subscriptions of the same persons upon both, viz. of Gilbert Billye and Patrick Sterling respectively, and those persons have likewise the same designation given them in the doquets of both those sets of registers.

More particularly, Gilbert Billye, who marks the first book of the secretary's register for the shire of Edinburgh, beginning in December 1599, and ending in August 1601, marks and subscribes in like manner the first book of the secretary's register from Aberdeenshire, beginning 21st December 1599, and ending 31st May

1795. 1602; and also the first book of the said register for the shire of Ayr; the first book for the shire of Banff; the first book for the shire of Kincardine; and the first book for the shire of Linlithgow; all within the same period, from 1509 to 1602. So likewise Patrick Sterling, who is a marker or subscriber of the said book of this register of the shire of Edinburgh, from 16th April 1602 to 29th June 1603, is the marker of the third book of the secretary's register for Aberdeenshire, from July to December 1604; of both the second and third books for Ayrshire, from July 1602 to May 1607; of the second book for Banff-shire, from March 1603 to February 1605; of the second book for Kincardineshire, from April 1604 to April 1607; and of the only book for the shire of Inverness, comprehending the shires of Ross and Cromarty, Sutherland and Caithness, from February 1606 to May 1608.

The writing or subscription of Adam Laute, by whom the last six newly recovered books of the register for Edinburghshire are marked, does not indeed appear upon any of the books of the secretary's register for other shires, preserved in the Public Register House, in the same manner as the writing and subscriptions of Gilbert Billye and Patrick Sterling; but, as Adam Laute subscribes the doquets at the beginning of the first and the second books of the Edinburgh register, and Gilbert Billye marks or signs every leaf of the said first book, and writes and signs the doquet at the end of it, and Patrick Sterling marks or signs every tenth leaf of the said second book, and repeatedly signs at the same page of it where Laute's subscription likewise appears, and writes and subscribes the doquet on the last page thereof, immediately under the signature of A. Laute, it is evident that Adam Laute, Gilbert Billye, and Patrick Sterling's handwriting and signatures corroborate each other, and prove that all the three were at the same time officers acting under the secretary's authority, in the marking and keeping different branches of this register. From thence it follows, that all the said eight volumes, being regularly attested by one or more of these three persons, must be thereby sufficiently authenticated.

Upon the grounds above stated, the Lords reporters are of opinion, that the said eight books mentioned in the Lord Register's petition, are all and each of them genuine original records, and parts of what was called the Secretarie's Register, upon the authenticity of which the lieges may and ought to rely; and, therefore, that the Lords, if it pleases them, should authorise the Lord Clerk-Register and his deputes, to receive and keep the said eight books in the General Register House, as part of the said register, and to give out extracts therefrom to all who may require the same accordingly.

10th March 1795.

DAV. RAE.
JOHN SWINTON.

11th March 1795.

The Lords having resumed consideration of the said petition, with the report of Lord Eskgrove and Lord Swinton, as to the authenticity of the volumes mentioned in the petition, the Lords approve of the

the report, and authorise the Lord Clerk-Register and his deputies, to receive and keep the said books in the General Register-House, and to give out extracts therefrom to all who may require the same; and appoint this petition, and deliverances thereon, with the foregoing report, to be recorded in the Books of Sederunt. 1795.

ILAY CAMPBELL, *I. P. D.*

3d June 1795.

Appointment of an interim Commissary of St Andrew's.

THE following petition was presented to the Court, for and in name of Stewart Grace, Commissary-clerk of St Andrew's, humbly shewing, That John Patullo of Balhouffie, Commissary-principal of St Andrew's, died lately. Before that court there are several causes depending which require dispatch, and new applications are making for confirmations: That there is yet no person appointed to succeed Mr Patullo, and some time may elapse before that happen. In this situation, it becomes necessary that your Lordships appoint an interim Commissary for St Andrew's, until his Majesty shall be pleased to appoint one; and the petitioner begs leave to suggest Mr Cathcart Dempster, agent for the Bank of Scotland at St Andrew's, or Mr Robert Meldrum, writer there, as proper persons for holding the office.

May it therefore please your Lordships, to authorise and appoint a proper person to act as interim Commissary of St Andrew's, in place of Mr Patullo, with power to hold Courts from time to time, in the ordinary form, to issue forth edicts and other writs usual, to confirm testaments, to hear and decide all causes consistorial, and to exercise the other powers competent to the said office, until his Majesty shall appoint a Commissary for said commissariat, or until further orders from this Court; and to dispense with the minute-book. According to justice, &c.

WILL. ERSKINE.

3d June 1795.

The Lords having heard this petition, they authorise and appoint the said Mr Robert Meldrum, to act as interim Commissary of St Andrew's, in place of the late Mr Patullo, with power to hold courts from time to time, in the ordinary form, to issue forth edicts and other writs usual, to confirm testaments, to hear and decide all causes consistorial, and to exercise the other powers competent to the said office, until his Majesty shall appoint a Commissary for said commissariat, or until further orders from this Court; and appoint this petition, and deliverance, to be entered in the books of sederunt, and dispense with the minute-book.

ILAY CAMPBELL, *I. P. D.*

1795.

6th June 1795.

Act for continuing Fees at the Bill-Chamber to the present Clerks' Servants.

UPON the 26th day of May last, the Lords of Council and Session, considering, That by their act of sederunt, dated 11th March 1789, there was appointed to be paid to the now deceased Laurence Inglis, then servant to the Clerks to the Bills, during his life, an additional fee of one halfpenny, upon the bills commonly called Plack Bills, presented at the ordinary hours of attendance, and an additional fee of twopence Sterling for such bills as should be presented after office-hours. And further, considering, That the present depute-clerks of the Bills, Andrew Miller, James Mercer and James Kerr, have, since the death of the said Laurence Inglis, the whole trouble of examining the warrants of the said bills, and writing the deliverances thereon: Therefore, the said Lords do hereby enact and ordain, That, over and above the fees now and formerly payable to the clerk's servant, of one plack, or one halfpenny, for every such bill presented during the usual hours of attendance at the office, and fourpence Sterling for every bill presented after office-hours, the additional fees above mentioned, formerly appointed to be paid to the said deceased Laurence Inglis, shall continue to be paid to the saids Andrew Miller, James Mercer, and James Kerr, the present depute-clerks to the bills, jointly; so that the whole fees payable at the Bill-Chamber, for the said bills commonly called Plack Bills, shall be one penny Sterling for those presented at office-hours, and sixpence Sterling for those presented after the usual office-hours; and ordain this act to be recorded in the Books of Sederunt, and printed and published in the usual manner.

25th June 1795.

THE Act of Sederunt 11th March 1788, renewed till 1st July 1796.

Interim Appointment of a Macer.

12th November 1795.

THE Lords having this day taken under their consideration, That by the death of John Small, one of the macers, the other three are not sufficient to discharge their duty in the service of the Court, they therefore authorise and appoint John Ritchie to exercise the office of macer in this Court, until his Majesty shall be pleased to name a successor to the said John Small, or that the Lords give further orders thereanent, with right to a proportion of the fees of Court, during his service. And the said John Ritchie

chie accordingly took the oath *de fidei administratione* in Court, and the oaths to Government before the Lord Ordinary. 1795.

2d December 1795.

Appointment of an interim Sheriff of Aberdeenshire.

A Petition by the Sheriff-clerk of Aberdeenshire, praying for the appointment of an interim Sheriff, in consequence of the death of Mr Alexander Elphinstone, the former Sheriff-depute, in terms similar to that of the Sheriff-clerk of Ayrshire, dated 2d February 1793, was presented to the Court; and on advising the same, 3d December 1795, the Lords named Mr John Pringle, Advocate.

19th December 1795.

A Committee named to inquire into the State of Prisons.

THE Lords renewed the former appointment of the 9th July 1790, and nominated the Lord President, the Lords Eskgrove, Swinton, Dunsmann, and Craig, to be a Committee of their number, whereof any three to be a quorum, the Lord President to be Convener.

11th March 1796.

Interim Appointment of a Sheriff-depute for Renfrewshire.

A Petition by the Sheriff-clerk of Renfrewshire, praying for the appointment of an interim Sheriff, in consequence of the promotion of Allan Maconochie, Esq; the former Sheriff-depute, to be one of the Lords of Session, in terms similar to that of the Sheriff-clerk of Ayrshire, dated 2d February 1793, was presented to the Court; who, on advising the same, named William Macdowall, Esq; Advocate.

30th June 1796.

Prolongation of the Act of Sederunt, 11th March 1788.

THE Lords having taken into their consideration, that their act of sederunt of the 11th March 1788, intituled, "Act for prolonging the time of the Lord Ordinaries sitting in the "Outer-House," expires on the 1st day of July next, do resolve to continue the same to the 3d sederunt-day of January next; and, therefore, do hereby declare, that the said act shall continue in force till the said day.

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Also,

1796. Also, this day, the Lords nominated and appointed the Lords Eskgrove, Swinton and Meadowbank, as a Committee of their number, whereof any two to be a quorum, and Lord Eskgrove convener, to consider the above act of sederunt, and report their opinion to the Court with regard to any alteration that may be thought proper and necessary.

6th July 1796.

Resolution with regard to Causes under L. 12 Sterling.

THE Lords recommend to their Committee of 30th June last*, to consider of what regulations may be necessary to prevent any lawsuit against debtors being brought into this Court in the first instance, unless the sums claimed from each defender amount to L. 12 Sterling.

7th July 1796.

Two Judges named of the Committee of the 13th February 1794.

THE Lords nominated and appointed Lords Craig and Polkemmet to be added to their Committee of the 13th February 1794, in place of the late Lords Henderland and Abercromby deceased.

12th November 1796.

Committee appointed to consider the Draught of a Charter for incorporating the Society of Solicitors.

THE Lords nominated and appointed the Lords Swinton, Dreg-horn and Polkemmet, as a Committee, to consider the draught of a charter, proposed to be obtained from the King, for incorporating the Society of Agents and Solicitors in this Court into a Corporation, whereof any two to be a quorum, and Lord Swinton convener; and to report their opinion to the Court.

Eodem die.

Committee as to Mr Robert Bell's Decisions.

THE Lords nominated and appointed the Lords Methven, Glenlee and Meadowbank, as a Committee of their number, to consider an application made to the Lord President relative to the decisions of the Court, published, or to be published, by Mr Robert Bell, writer to the Signet, whereof any two to be a quorum, and Lord Methven to be convener; and to report their opinion to the Court.

15th

* It does not appear from the Books of Sederunt that a Committee was appointed on the 30th June 1795.

15th November 1796.

1796.

Act for the Intimation of Petitions against Interlocutors in the Bill-Chamber.

THE Lords taking into consideration, That when any party who is dissatisfied with an interlocutor pronounced in the Bill-Chamber, means to reclaim to the whole Court, it is reasonable, and would tend to the dispatch of business, that the other party should have notice of such intention, in order that he may be prepared to instruct his counsel to appear for him, when the petition is moved in Court: Do therefore hereby ordain, That every such petition be intimated in the same way and manner that incidental petitions are ordered to be intimated by the acts of sederunt relative thereto, and with the like certification as in the case of incidental petitions: And also, that a copy of the said petition shall be lodged with the clerk of the bills, at the same time that it is intimated to the party or his agent. And the said Lords ordain this act to be inserted in the books of sederunt, and printed copies thereof affixed on the walls of the Inner and Outer House.

ILAY CAMPBELL, *I. P. D.*

17th December 1796.

Committee to consider Mr Bell's Decisions, and Memorial by the Writers to the Signet as to Lectures on Conveyancing.

THE Lords nominated and appointed their two former Committees, to wit, Lords Eskgrove, Swinton, Dreghorn, Polkemmet, Methven, Glenlee and Meadowbank, as a Committee of their number, to consider the application made to the Lord President relative to the decisions of the Court, published, or to be published, by Mr Robert Bell, writer to the Signet, and also to consider the memorial given in by the writers to the Signet, relative to the appointment of a proper person for giving lectures on conveyancing; whereof any three of the said Lords to be a quorum, and Lord Eskgrove to be convener; and to report their opinion to the Court. — Lord Craig added to the Committee.

17th January 1797.

Act concerning the Transmission of Processes from the Courts of Inferior Judges, in cases where Bills of Advocation are offered against the Proceedings of such Inferior Courts.

THE Lords taking into consideration, That when bills of advocacy are presented to them, complaining of the proceedings of Sheriffs or other inferior judges or magistrates, the making copies

1797.

pies of these proceedings is a considerable expence, and it is often necessary that the principal writings produced in such courts should be laid before their Lordships; they do therefore hereby enact and ordain, *1mo*, That in all cases where such bills of advocation are presented, and where either of the parties, or the Lord Ordinary at the time acting as Ordinary on the Bills, shall think it necessary or proper that his Lordship should have before him the original proceedings and productions in the inferior court, it shall be incumbent upon the complainer in the bill of advocation to have that production made, by transmission of the process at his expence; and it shall be the duty of the clerk of such inferior court, at the request of either of the parties, and their showing evidence that such a bill has been presented, to transmit to the clerk to the bills, or his deputies, in a sealed cover, the whole proceedings, minutes and productions, with a full inventory thereof, signed by him; providing the transmission of such process shall not be intrusted to the complainer, when the suppression or alteration of any part of the process may be for his advantage.

2do, The clerk of the bills, or his depute, who receives the said process, shall give a receipt for the same to the person who delivers it to him, to be transmitted to the clerk of the said inferior court, and at the same time shall advance the postage or expence of the carriage of such process, which expence shall be repaid him by the said complainer.

3tio, That when the clerk of the inferior court shall send the process as aforesaid to the clerk of the bills, he shall be entitled to demand, and to receive, from the complainer in the bill of advocation, as a fee for his trouble, a sum equal to one-fourth of what a full extract of the proceedings, exclusive of productions, would amount to; providing always, that the said fee shall not be under 5 s. nor exceed 20 s. Sterling, whatever the length of the extract may be computed to be, and the said clerk of the inferior court shall allow the said fee in part of what he may afterwards be entitled to receive for an extract of the decret, when the cause is finished before the inferior court.

4to, In case the bill of advocation shall be finally refused or remitted, the clerk of the bills shall return the process in a sealed cover to the clerk of the inferior court, who upon receiving the same shall return the receipt of the clerk of the bills to him, and shall advance the expence of the carriage, to be repaid him by the said complainer.

5to, In case of a second bill of advocation, the additional proceedings only shall be reckoned in computing the length of the extract.—And the Lords ordain this act of sederunt to be affixed on the walls of the Inner and Outer House, in the usual form, and to be entered in the Books of Sederunt.

ILAY CAMPBELL, *I. P. D.*

Eodem die.

THE act of sederunt 11th March 1788 renewed to 11th July next.

Appointment

Appointment of an Interim Sheriff-depute for Lanarkshire. 1797.

16th February 1797.

A Petition subscribed by the Sheriff-clerk of Lanarkshire, praying for the appointment of an interim Sheriff, in consequence of the promotion of William Honyman, Esq; the former Sheriff-depute, to be one of the Lords of Session, in terms similar to that of the Sheriff-clerk of Ayrshire, dated 2d February 1793, was presented to the Court, who, on advising the same, named Mr Robert Sinclair, advocate.

29th June 1797.

THE act 11th March 1798, renewed till 5th federunt-day of July 1798.

16th January 1798.

Act concerning the Inrolment of Causes in the Inner-House, and returning of Processes to the Clerks:

THE Lords, in order to enforce the due observance of the regulations respecting the inrolment of bills, answers, reports, and hearings in presence, established by acts of federunt, dated 13th of July 1739, and 16th of January 1755, which require all causes to be inrolled in the books of the keeper, previously to their being brought into the short roll for advising; do appoint and ordain, that, in time coming, every cause shall be regularly inrolled in the books of the keeper within six federunt-days after the answers, or other paper by which the debate is closed, shall have been put into the Lords' boxes during the sitting of the session; and in case such papers shall have been boxed during the spring or autumn vacation, or Christmas recess, the cause shall be inrolled in the books of the keeper, within two days at furthest after the recommencement of the session; and all cases taken to report from the Outer-House shall be inrolled as above, within the space of six federunt-days after the Lord Reporter shall have granted his warrant for inrolling the same. And the Lords declare, that each party failing to inrol as above, shall forfeit an amand of 40 s. Sterling to the poor. And in order that all fines thus imposed may be strictly levied, the Lords appoint the keeper of the Inner-House rolls to enter in a book a list of the amands so incurred, which book shall be patent to the collector of the poors' funds for the time being, every session day, from which he may be enabled to recover the same; for which purpose, he is hereby directed to use the means authorised by act of federunt, "for the more speedy and effectual levying of fines and amands, dated the 26th day of February 1794." And in case the said keeper do in any instance neglect, or refuse to enter such an amand in his book, or to make the same patent to the collector of the poors' money, he shall be sub-

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1798. jected in the like fine of 40 s. to the poor, *toties quoties*, which the collector is hereby ordered strictly to uplift, and account for, with the other fines.

The Lords further considering, that great inconveniencies arise from the non-observance of the acts of sederunt of the 19th of December 1739, and 24th of July 1741, against detaining processes too long from the clerks; do hereby ordain, that in time coming, the process be returned to the clerk, between the hours of five and six o'clock in the afternoon, at furthest, of the day when either a petition or an answer is put into the Lords' boxes, and the said acts of sederunt to be in other respects observed. And declare, that in time coming, no amand incurred through neglect of the above act shall be dispensed with. And appoint the clerks' servants in the different offices to furnish a list of the contraveners to the collector of the poors' money for the time being, in order that the same may be recovered: Excepting always from this regulation such processes in which petitions, or other papers, shall be boxed on Saturdays; in which case, the processes are hereby appointed to be lodged with the clerks upon the Mondays following, between the hours of twelve at noon and one afternoon, and that under the above-mentioned penalty. The same rules are to be observed with respect to causes taken to report from the Outer-House upon informations, and likewise in summary causes, not abiding the course of the long roll.

Lastly, The said Lords, taking under their consideration the act of sederunt, dated the 11th day of March 1791, regulating the fees of the keeper of the Inner-House rolls, and observing that article fifth thereof, allowing a fee of 2 s. 6 d. upon refused petitions, is imperfect, do hereby enact, That the same fee shall be paid in all cases of reclaiming petitions, which are not to be answered, whether the same be refused or granted, or remitted to an Ordinary. And the Lords appoint this act to be printed, and intimated on the walls of the Inner and Outer Houses, in common form, and entered in their books of sederunt.

ILAY CAMPBELL, I. P. D.

6th February 1798.

Craigcrook's Mortification.

THE Lords having advised a note for the Trustees of Mr Strachan of Craigcrook's mortification, they appoint Lord Glenlee Lord Overseer thereof, in the room of the late Lord Henderland.

10th March 1798.

Act regulating the Fees payable to the Assistants of the Clerks of Session.

THE Lords, having taken into consideration an application made to them for ascertaining and regulating the fees payable to the assistants of the Clerks of Session, Do hereby enact and ordain,
That

That from and after the date hereof, the said fees shall be paid according to the table hereafter insert: And they prohibit and discharge the Clerks of Session, from permitting the assistants in their different offices, to ask, take, or receive, any other or greater fees, than what are contained in the said table, as they will be answerable.

For summonses, suspensions, and advocations, to be paid by the pursuer or raiser when first brought into Court, and levied by the keeper of the Outer-House rolls, at the enrolment thereof, who is hereby required to levy the same, and distribute the whole proceeds equally amongst the six assistants,	L. 0	1	6
At lodging defences, condescendences, representations, answers, memorials, replies, and the like, each	0	1	0
At transmitting processes to the Lords Ordinary for advising, to be paid by the party who lodges the last paper previous to transmission,	0	1	0
All borrowings in processes under forty articles, (except rankings and multiplepointings, as hereafter specified,)	0	1	0
If containing above forty articles, but under one hundred,	0	2	0
For every other hundred articles, till the borrowings amount to five shillings, but no further.	0	1	0
For borrowings in rankings or multiplepointings by common agents, if under thirty articles,	0	2	6
And if one hundred and upwards,	0	5	0
For every interest in these processes, when borrowed by agents for individual creditors, and on which the clerks fees have been paid,	0	1	0
But these, when borrowed by one person, not to exceed in whole,	0	5	0
At outgivings to extractors,	0	1	0
At lodging an interest in a ranking or multiplepointing,	0	1	0
At marking the appearance of a person as a party, not formerly a pursuer or defender in the cause,	0	1	0
At marking production of writings other than those labelled on, and produced by the pursuer before defences are lodged, if under thirty articles,	0	1	0
If thirty articles, and under one hundred,	0	2	0
And for every other fifty articles,	0	1	0
For judicial intimations,	0	2	6
For officiating at the elections of common agents in multiplepointings,	0	7	6
For ditto in rankings,	0	10	6
For copying minutes and interlocutors, each sheet,	0	1	0
For drawing articles of roup, states of interests in rankings and multiplepointings, interlocutors of ranking; first sheet,	0	5	0

Every

1798. Every other sheet,	-	-	-	0	3	0
For extending the same after being revised, each sheet,	-	-	-	0	1	0
For officiating at sales for each lot, the upset price where-	-	-	-			
of is L. 100 or upwards,	-	-	-	1	1	0
When the upset price is below L. 100, if only one lot,	-	-	-	0	10	6
And if more than one lot under that upset price, the fee	-	-	-			
for such lots altogether, however numerous, shall be	-	-	-			
only in whole,	-	-	-	1	1	0
At making searches for sleeping processes, within nine	-	-	-			
years back from the period of the search,	-	-	-	0	2	6
If more than nine years, but under twenty,	-	-	-	0	5	0
If more than nineteen years, but under thirty,	-	-	-	0	7	6
If for thirty years or upwards,	-	-	-	0	10	6
At requesting captions for processes,	-	-	-	0	1	0
At obtaining warrant from a Lord Ordinary to inrol,	-	-	-			
each party (no fee being chargeable with the papers	-	-	-			
then lodged for consideration of the Inner-House),	-	-	-	0	1	0
At production of all reports of acts and commissions, and	-	-	-			
oaths of verity,	-	-	-	0	1	0
For preparing reports upon remits, a fee according to the	-	-	-			
trouble the business requires, and subject to the final	-	-	-			
determination of the Lord Ordinary to whom the re-	-	-	-			
port is made.	-	-	-			

The Lords ordain the said fees to be paid, the first excepted, to the assistants severally who perform the duty for which they are allowed, and that by the persons at whose request it is performed. And further, the Lords prohibit and discharge all agents and practitioners before this Court, and all others concerned, from transmitting any process or parts of process to the Lords Ordinary, except through the Clerks of Court and their assistants: And prohibit and discharge the clerks of the Lords Ordinary from receiving any process, part of process, or paper, intended to be produced, or to form a part of process, from any other person or persons than the said clerks and their assistants. And they appoint the clerks and their assistants to transmit all representations given in and marked by them, on or before one o'clock of the first sederunt-day following the date of the said ingiving. And the said Lords ordain the Clerks of Court, henceforth, to make out and maintain a correct inventory of the articles of which each process consists, and which inventory shall specify the dates of the productions and ingivings hereafter made, and always form one of the articles of said process, when transmitted to the Lords Ordinary for advising. And the said clerks and their assistants are also hereby ordained, to enter in a paper apart, to be kept in each process that shall hereafter come into Court, the steps of procedure which therein take place, from the first calling before the Lord Ordinary in the Outer-House, to the final judgment in the cause; in which paper they shall mark the callings, appearances, motions, ingivings, orders and interlocutors, according to the series as they take place in Court. And it is hereby directed, that if any deliverance is given upon a representation

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or other application, for any one party, while the process is borrowed up by the other, such deliverance shall be transcribed by the said clerks or their assistants ^{1798.} into the record of procedure, before the process be again transmitted for advising.

And they enact and declare, That no person shall hereafter be qualified to be admitted as an assistant to the clerks, unless he appear before the Lord Ordinary in the Outer-House, and make oath *de fidei*, and also, that he has neither paid nor promised to pay, nor come under any understanding, by himself, or by any other person or persons, to pay, nor in fact will pay, any sum of money, or make good any valuable consideration whatever, for obtaining or continuing to enjoy said office. And they also enact, that in case it shall afterwards be discovered, that such oath has not been consistent with truth, or has not been duly observed, the offender shall, on the fact being established, be thereby rendered incapable of holding the said office of assistant. And the Lords appoint this act to be recorded in the Books of Sederunt, and to be printed and published in the usual form, for the information of all concerned, and to be intimated in the minute book.

ILAY CAMPBELL, I. P. D.

10th March 1798.

Interim Act, allowing certain Additional Fees to be exacted by Andrew Miller, Depute-Clerk of the Bills.

THE Lords, considering, that by the operation of the Small Debt Act, and other circumstances, the fees and perquisites of Andrew Miller, Depute-clerk of the Bills, have been considerably reduced; and that it is in the view of the Court to make certain regulations, by a new act of sederunt, relative to the Bill-Chamber, but which cannot be prepared or passed earlier than the next summer session; and whereas it is proper, that, in the mean time, the said Andrew Miller should be permitted to take certain additional fees, in order to enable him to carry on the business: Therefore, the said Lords hereby authorise and allow the said Andrew Miller to exact, and apply to his own use alone, the following additional fees and perquisites in the Bill-Chamber, from the date hereof, until the third sederunt-day of June next, or until a more permanent regulation shall be established, viz.

An addition of Four shillings and fivepence halfpenny Sterling, to the present fee payable on presenting bills of advocacy, making advocations the same with suspensions:

The additional sum of Three shillings and sixpence, upon every bill passed without answers or replies:

The additional fee of One shilling and sixpence, upon every bond of caution presented.

ILAY CAMPBELL, I. P. D.

1798.

Eadem die.

Seal of Court.

THE seal is kept in a box, to which there are two keys, in a press at the back of the Lord President's chair. One of the keys, and that of the press, are lodged with the Lord President, and the other key of the box with Lord Swinton, and got when wanted from their clerks.

19th May 1798.

Committee with regard to Causes under L. 12 Sterling.

THE Lords remit to Lords Eskgrove, Stonefield and Swinton, to inquire into the practice of including a number of small debts in one summons before the Court; and to consider whether any new regulation is necessary concerning it. Lord Eskgrove convener.

28th June 1798.

THE act of sederunt of 11th March 1788, renewed till 5th sederunt-day of July 1799.

4th July 1798.

Interim Appointment of a Keeper of the Register of Seifins for Kinrossshire.

A Petition praying for the appointment of an interim keeper of the register of seifins for the shire of Kinross, in terms similar to that of James Hill, dated 22d December 1792, before inserted, was presented by George Peat, writer, the son of the former keeper, and, on advising it, the Court appointed the petitioner.

27th November 1798.

Act imposing a Stent of *Two per cent.* upon the Members of the College of Justice, for the Maintenance of the Indigent Wives and Families of Sailors and Soldiers who are absent in the Service of their Country.

THE Lords, having considered an application made to them by the Magistrates of Edinburgh, communicating certain acts of the Town-Council, made in the years 1795 and 1796, and this present year 1798, authorising and recommending voluntary contributions, for the assistance and support of the wives of soldiers and sailors, who are abroad in the service of their country,

country, and who had, by residence, acquired a legal settlement in the city; together with reports from the committee for managing these contributions, which had been laid before a meeting called for that purpose, of some of the Judges, Magistrates, Dean of the Faculty of Advocates, Deputy-Keeper of the Signet, and other members of the College of Justice, with the resolutions of that meeting, recommending (in consequence of the last voluntary contribution having failed) an additional stent or assessment to be laid upon all the inhabitants within the royalty: and having also considered reports from the Dean and Faculty of Advocates, and from the Deputy-Keeper and Writers to the Signet, agreeing to an assessment of two *per cent.* upon the rents of their houses, being laid upon them, as well as upon the other inhabitants within the royalty, providing the same be laid on, and levied by authority of an act of Sederunt, in the same terms, and under the same conditions, as was done, for a similar purpose, by acts of Sederunt, 29th January 1678, and 18th February 1732. And the Lords being convinced, that an assessment is expedient and necessary for the purposes before mentioned; therefore the Lords of Council and Session do, with consent of the Magistrates and Town-Council, authorise and empower the said Magistrates to impose a stent of two *per cent.* for two years, commencing from the term of Whitsunday last, upon all the inhabitants, burghesses and others, within the royalty, according to the rents of the houses severally possessed by them, to be applied for the assistance and support of the indigent wives and families of sailors and soldiers, who are presently absent in the service of their country. And the said Lords for themselves, and likewise the Advocates, Clerks, Writers to the Signet, and others, members of the College of Justice, have voluntarily and freely offered to pay the above two *per cent.* according to the rents of the houses they possess within the royalty, yearly, for the space of two years, commencing from the said term of Whitsunday last. And declare, That in case of deficiency in payment, by any of the members of the College of Justice, the collector of the said stent shall present to the Lords of Session a list of the deficient, on which the Lords will grant such diligence as to them shall seem proper. And in regard the Writers to the Signet have full power over their own members in the first instance, ordain the list of deficient in that society, to be laid before the Keepers and Commissioners: And it is further declared, That this offer shall no ways prejudice the said Lords, and remanent members of the College of Justice, from being free from all stents and impositions within the town of Edinburgh, except the cess when imposed by law. And the said Lords declare, That they will name some of the members of the College of Justice to be present when the stent shall be laid on, to see that the same be equally imposed; and for that effect, appoint the Magistrates to give intimation to the Court of the time it is to be laid on: And ordain this act to be recorded in the Books of Sederunt, and printed and published in common form.

1798.

1799.

27th February 1799.

Appointment of an Interim Commissary of St Andrew's.

*Unto the Right Honourable the Lords of Council and Session,
The Petition of Stewart Grace, Commissary-clerk of St Andrew's.*

Humbly Sheweth.

THAT Robert Stark, writer in Cupar, Commissary-principal of St Andrew's, died in December last. Before that Court there are several causes depending which require dispatch, and new applications are making for confirmations: That there is yet no person appointed to succeed Mr Stark, and some time may elapse before that happen. In this situation, it becomes necessary that your Lordships appoint an interim Commissary for St Andrew's, until his Majesty shall be pleased to appoint one; and the petitioner begs leave to suggest Mr Cathcart Dempster, agent for the Bank of Scotland at St Andrew's, as a proper person for holding the office.

May it therefore please your Lordships, to authorise and appoint a proper person to act as interim Commissary of St Andrew's in place of Mr Stark, with power to hold courts from time to time, in the ordinary form, to issue forth edicts and other writs usual, to confirm testaments, to hear and decide all causes consistorial, and to exercise the other powers competent to the said office, until his Majesty shall appoint a Commissary for said commissariat, or until further orders from this Court; and to dispense with the minute-book. According to Justice, &c.

JOHN MACFARLANE.

27th February 1799.

The Lords having heard this petition, they authorise and appoint Mr Robert Meldrum, Sheriff-substitute of Fife, to act as interim Commissary of St Andrew's in place of Mr Stark; with power to hold courts from time to time, in the ordinary form, to issue forth edicts and other writs usual, to confirm testaments, to hear and decide all causes consistorial, and to exercise the other powers competent to the said office, until his Majesty shall appoint a Commissary for said commissariat, or until further orders from this Court; and dispense with the minute-book; and appoint this petition and deliverance to be entered in the Books of Sederunt.

ILAY CAMPBELL, I. P. D.

8th March 1799.

1799.

A Committee appointed with regard to Improvements
on the Inner-House.

THE Lords nominated and appointed the Lords Meadowbank, Cullen and Armadale, as a committee of their number, any two to be a quorum, and Lord Meadowbank convener, to meet with a committee to be appointed by the Dean and Faculty of Advocates, in order to consider what reparations, alterations and additions, are proper and necessary to be made on the Inner-House, for the better accommodation of the Court ; and to report.

Eodem die.

Collectors of Decisions authorised to publish the Acts
of Sederunt.

ON the motion of the Lord Advocate, as Dean of Faculty, the Lords allowed and authorised the Collectors of Decisions appointed by the Faculty of Advocates, to publish the Acts of Sederunt passed since the late publication of them in 1790, and in future ; and, for that purpose, to have access to, and take excerpts from, the Sederunt Books of the Court.

14th June 1799.

Act concerning the Bill-Chamber.

THE Lords, taking into their consideration, that bills of suspension are often presented for no other purpose, than merely to procure a temporary sist of execution ; and, that the rules hitherto observed as to finding caution, both in suspensions, and in certain cases of advocacy, have been attended with many inconveniencies, and require to be altered, do therefore enact,

1st, That from and after the 11th day of July next, when a bill of suspension is offered upon caution in common form, if the Lord Ordinary, upon reading the bill, shall think proper to grant a sist, the complainer shall lodge his bond of caution with the clerk, on or before the day when the sist expires ; and the deliverance upon the bill shall be so expressed, as to leave the charger at liberty to delay giving in his answers till he has an opportunity of seeing the bond of caution ; and in case the bond shall not be so lodged, or being lodged, the same is not consented to by the charger, or received as sufficient by the clerk, the bill shall of course be held as refused for want of caution, and diligence, or other proceedings, may, upon a certificate of the fact, issued by the clerk, be then carried on as if the bill had never been presented or sisted ; unless the Lord Ordinary for the time, upon a written application from the complainer or his agent, and consignation of a sum to be fixed by his Lordship, (not exceeding L. 5 Sterling), in the clerk's hands, to answer for expences in the Bill-Chamber, if awarded, shall see cause to prorogue the sist for a further period, not exceeding ten days, in order that

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1799. the complainer may, either within that time, procure sufficient attestors, in terms of the act of sederunt 27th December 1709, or amend his bill, by praying, that it should be passed on *juratory caution*; but it is declared, that no more than one application for such prorogation of the sist shall in any case be competent in the Bill Chamber:—And the same rules shall take place as to bills of advocacy in removings, where caution is required.

2dly, That in all cases, where bills of suspension are offered upon *juratory caution*, the complainer shall produce, in the clerk's hands, along with his bill, or at least before the same is presented to the Lord Ordinary for the purpose of obtaining a sist; 1st, The bond of caution; 2dly, A full inventory of his subjects and effects of every kind; 3dly, His oath or deposition, emitted before any Justice of Peace, or other magistrate, in the usual form; and also, an enactment subjoined to the inventory, bearing, that he will not dilapidate or dispose of any of his effects, or uplift any of the debts due to him, without consent of the charger or his agent, (under pain of imprisonment, or being otherwise punished as guilty of a fraud), till the suspension is discussed, and until there be an opportunity of doing diligence against him, in case the letters shall be found orderly proceeded. And further, in case the Lord Ordinary shall think proper to grant a sist upon any such bill, the complainer shall, on or before the day when the sist expires, produce in the clerk's hands, the vouchers of any debts due to him, and the title-deeds of any heritable subject belonging to him, so far as he or his agent are possessed of the same, or have access to them; and he shall, if required by the charger, grant a special disposition to him of any such heritable subject, in security of his demand; the said disposition to be made out at the expence of the charger, and by his agent, and the same to remain with the title-deeds, and vouchers aforesaid, deposited in the hands of the clerk to the bills, subject to the direction of the Court, till the suspension is discussed; it being understood, that the general disposition *omnium bonorum*, heretofore required, is now to be dispensed with, as having been found by experience to be nugatory, and only attended with unnecessary expence to the granter.

3dly, That every bond of caution, whether in cases of *juratory* or common caution in the Bill-Chamber, shall, in time coming, be extended by the officiating or depute-clerk to the bills, in the proper form, and containing the necessary clauses adapted to the regulations prescribed by this and other acts of sederunt of the Court; for doing which, the clerk shall be entitled to demand a fee of 2 s. 6 d., and no more, for each bond; and in cases of *juratory caution*, along with the bond, he shall also give out a form of the oath to be taken and subscribed by the complainer, and a form of the inventory, and enactment thereon; for both which, a fee of 1 s. shall be charged, and no more.

4thly, When a bill of suspension or advocacy is appointed to be answered, the respondent shall not be allowed more than a week after expiry of the sist; or, upon special cause shown, a week longer to put in his answers, in order that the litigation in the Bill-Chamber may

may not be too long protracted; and the time allowed for replies, which is at present confined to a week, may, upon cause shewn, be extended to a fortnight, and no longer; and when either an answer or a reply, or any other paper is given in by a party in the Bill-Chamber, his agent shall give notice in writing, on the same day, to the agent for the other party, that such paper is in the clerk's hands, and a certificate of such intimation shall be lodged with the clerk; otherwise the said paper shall not be laid before the Lord Ordinary who is to advise the bill. 1799.

5^{thly}, When a bill of suspension or advocacy is passed by the Lord Ordinary on the Bills, the complainer shall expedite the letters at the Signet, within ten days thereafter, otherwise the same shall fall to the ground, and the respondent shall be at liberty, upon a certificate from the Signet-office, obtained at any time after the said period is elapsed, bearing that the letters are not expedite, to go on with his diligence or other proceedings, as if the bill had been refused;—And further, in that case, the respondent shall be at liberty to apply to the Ordinary on the Bills, for his expences, both against the principal and the cautioner; it being understood, that, in time coming, the cautioner is to be liable as well as the principal, for the expences, both in the case already mentioned, and in the case of the respondent's obtaining protestation in the Outer-House, against the complainer for not insisting; and the expences being so awarded, the clerk to the bills shall deliver up to the respondent an extract of the bond of caution, in order that he may put the same in execution accordingly.

6^{thly}, That where any bill of suspension or advocacy, advised upon its merits, has been *refused*, either in session time, (except as in the next article), or during the last three weeks of the spring or of the autumn vacation, or during the Christmas recess, it shall not be competent to the complainer to present any second or other bill, to the same or any succeeding Ordinary on the Bills; but the Lord Ordinary may, upon cause shown, prorogate the sif, so as to give an opportunity of reclaiming to the whole Court, provided the reclaiming petition shall be given in to one of the Principal Clerks of Session, and moved in Court within eight federunt-days after the date of the Lord Ordinary's deliverance refusing the bill, if pronounced in session time, or within four federunt-days after the Court's next sitting, if the deliverance has been pronounced during the last three weeks of a spring or an autumn vacation, or during the Christmas recess. And in case any such bill of suspension or advocacy has been *passed* during the times before described, it shall in like manner be competent for the party thereby aggrieved, to reclaim to the whole Court, provided the reclaiming petition be moved and boxed within the number of days before mentioned, the Lord Ordinary on the Bills being hereby authorised to make an order, at the instance of the charger, against expediting the letters in the mean time.

7^{thly}, That where a bill of suspension or advocacy, advised on its merits, has been refused during the four last federunt-days of the winter or summer sessions, or during the spring or the autumn vacations,

1799. cations, (excepting within the last three weeks of each of those vacations,) it shall be competent for the complainer in any such refused bill, to present one other bill, to the next succeeding Ordinary on the Bills; but in case the second bill shall also be refused, it shall not be competent to make any other application of that kind, without some material alteration having occurred in the circumstances of the case, in consequence of facts recently come to the knowledge of the party, to which he or his agent shall make oath; nor shall there by any prorogation of the sif, unless the Lord Ordinary, by whom the bill is refused, shall think proper, upon good cause shewn, to grant such prorogation, at the time of refusing the bill. But providing and declaring always, That (as formerly has obtained) in all cases where bills of suspension or advocation have either been refused or passed, during any time, either of the spring or of the autumn vacation, and execution or other legal proceedings have not followed upon the refusal of such bills, or the letters of suspension or advocation have not been expedite, upon bills that have been passed between the dates of the Lord Ordinary's deliverances, refusing or passing such bills, and the commencement of the session next ensuing, it shall still be competent for the parties concerned to reclaim by petition to the whole Court, against the saids deliverances, within the first four sederunt-days of the said next session, in the same manner as if such deliverances had been pronounced within the last three weeks of such vacation.

8thly, That when a bill is either passed or refused, it shall be entered in the minute-book of the Bill-Chamber by the clerk, as soon as the bill, with the deliverance thereon, is returned into his hands, or at least in the course of that day; and the certificate of refusal shall not be delivered out, till twenty-four hours after the same has appeared in the minute-book, the date and hour of its being so entered being marked in the book. And the act of sederunt, of the 3d July 1677, *concerning the sisting of execution upon bills of suspension*, in so far as the same is inconsistent with any of the foregoing regulations, is hereby repealed, and shall have no further effect in future.

And, 9thly, Whereas the act of sederunt, dated 18th February 1686, *Declaring the clerk of the bills liable for the party's damage, as well when he refuses a cautioner who is sufficient, or bolden and repute to be sufficient, as where he receives an insufficient cautioner*, has by experience between found to be liable to misconstruction, and to lay the clerks of the bills under difficulties in the execution of their duty; Therefore, the said Lords do hereby repeal the said act, and declare, That, in time coming, the clerks of the bills shall be responsible for the due and faithful execution of their duty, whether in receiving or rejecting cautioners, according to the rules of common law and justice, applicable to the circumstances of the cases that may hereafter occur.—And appoint this act to be inserted in the Books of Sederunt.

ILAY CAMPBELL, I. P. D.

1799.

15th June 1799.

Sentence against Hew Darby.

IN the conjoined petitions and complaints insisted in and depending before this Court, at the instance of Robert Dundas; Esq; of Arncliffe, his Majesty's Advocate for his Majesty's interest, against Hew Darby, writer in Kilmarnock, late tobacconist there, the Lords pronounced the following interlocutor:

Having considered the state of these complaints, proof adduced, and writings produced, and heard counsel for the parties; in respect it appears from the execution returned upon the warrant issued by the Court upon the 7th current, for apprehending the person of the said Hew Darby, that he has absconded and cannot be found; therefore, grant warrant for letters of horning, directed to messengers at arms, to command and charge the said Hew Darby, personally, or at his dwelling-place, if within Scotland for the time, and, if forth thereof, at the market-cross of Edinburgh, pier and shore of Leith, to compare in Court upon the third sederunt-day of November next, in the hour of cause, with continuation of days, to shew cause why judgment should not be pronounced against him as accessory to, or art and part guilty of, the crime of fraudulent bankruptcy, and other frauds, as charged in the complaints exhibited against him, under the pain of rebellion, and of putting him to the horn; wherein if he fail, the said day being bygone, that the said messenger or messengers denounce him his Majesty's rebel, and put him to the horn, and to escheat and inbring all his moveable goods and gear, for his Majesty's use, for his contempt and disobedience. And ordained this warrant to be inserted in the Books of Sederunt.

ILAY CAMPBELL, *I. P. D.*

27th June 1799.

Lord Methven named one of the Arbiters in the Twopenny Act.

THE Lord Methven appointed by the Court one of the arbiters for carrying the act of George the Third, intituled, "An act for the further continuing for thirty-eight years, the term granted by an act of the 25th year of the reign of his late Majesty George the Second, for continuing the duty of two pennies Scots upon every pint of ale and bear sold in the city of Edinburgh, and places adjacent, for the purposes therein mentioned, and for explaining and amending the said act."

28th June 1799.

THE Act of Sederunt of the 11th March 1788, renewed till 5th July 1800.

1799.

29th June 1799.

Committee named to inquire into the State of Prisons.

THE Lords renewed their former appointment of 9th July 1790, and nominate the Lord President, and the Lords Elkgrove, (now the Lord Justice-Clerk,) Dunfinnan, Craig, Polkemmet, Meadowbank and Armadale, to be a Committee of their number, whereof any three to be a quorum, and the Lord President to be convener.

17th December 1799.

James Gibson, Writer in Edinburgh, appointed Interim Keeper of the Minute-Book.

Unto the Right Honourable the Lords of Council and Session,

The Petition of James Gibson, writer in Edinburgh;

Humbly Sheweth,

THAT the petitioner has been employed for these six years past as clerk to Alexander Gordon, keeper of the minute-book, and for a considerable time past has done the whole duty of the office, in consequence of Mr Gordon's total inability, arising from a constant state of extreme bad health. That the said Alexander Gordon died on the 14th of this month, at Deebank, in the stewartry of Kirkcudbright. In consequence of Mr Gordon's death, the business of the said office must be suspended, whereby great inconvenience will arise, unless your Lordships are pleased to interpose, by naming an interim keeper; and the petitioner flatters himself your Lordships will, under all the circumstances of the case, be disposed to consider him as the fittest person to hold the office in the mean time.

May it therefore please your Lordships to nominate and appoint the petitioner interim keeper of the minute-book, and authorise and empower him to exercise the said office, with the ordinary powers thereof, until a commission appointing a keeper shall be produced to the Court.

CHA. HOPE.

The Lords having heard this petition, they nominate and appoint the petitioner interim keeper of the minute-book, and authorise and empower him to execute the said office, with the ordinary powers thereof, until a commission appointing a keeper shall be produced to the Court, or that this warrant shall be recalled; and ordain this petition, and interlocutor, to be entered in the Books of Sederunt; and dispense with the minute-book.

ILAY CAMPBELL, I. P. D.

18th

18th January 1800.

1800.

COMMITTEE on Bill-Chamber regulations renewed.

29th January 1800.

Procedure on Petition for Writers' Clerks, &c.

YESTERDAY, the Lords remitted the petition for the clerks, apprentices, &c. to the writers, agents or solicitors, and lawyers' second clerks, to the committee named by the Court upon the fees and regulations in the Bill-Chamber, to consider the claim of the petitioners, and report their opinion thereupon to the Court.

4th March 1800.

Act appointing Sequestrations during the Vacation to be inserted in the Minute-book.

IT having been represented to the Court, that it would be a considerable advantage to the public, if the sequestrations awarded or recalled during the vacation, were entered in the minute-book, the Lords do, therefore, enact and ordain, that, for the future, the clerks to the sequestrations, awarded or recalled by the Lords Ordinary on the Bills in time of vacation, shall enter them in their minute-book, in the same way as those awarded or recalled by the Court in time of session; and authorise the keeper of the minute-book, to enter them in the general minute-book, upon the first day of every session, he always receiving the usual fee payable for intimations; and, that the practitioners may be the better informed when such sequestrations are awarded, appoint the clerk's servant in the Bill-Chamber to keep a roll of all sequestrations awarded during the vacation, for which he shall receive a fee of one shilling from the person applying for the sequestration, this roll to be patent to all concerned, without any other fee or reward; and appoint this act to be entered in the Books of Sederunt, and printed and published in the usual form.

ILAY CAMPBELL, *I. P. D.*

11th March 1800.

Act concerning Proofs.

WHEREAS, by the ancient mode of proceeding in this Court, the relevancy of disputed facts was, for the most part, fixed by interlocutors of the Lord Ordinary, or of the Court, before any warrant for proving was issued; and, when afterwards it became more the practice to allow acts, before answer to the relevancy, it was still considered to be the duty of the Judge, to admit only such facts and allegations to proof, as appeared to him material to the
issue

1800. issue of the cause; and, when witnesses were cited upon incident diligence to appear in Edinburgh, the regular form was to bring them before the Ordinaries, appointed in rotation to administer oaths, and take such examinations; and, further, when the proof, upon being concluded, was reported to the whole Court, a state thereof was carefully prepared, in a certain manner directed by various regulations then in force.

And whereas, in the late practice of the Court, the above salutary forms have been too much disregarded; and, on that account, an entry was made in the Books of Sederunt, on the 15th June 1774, bearing, that "The Lords taking under consideration, that, "in several prepared states, lately given in to the boxes, much matter has been introduced foreign to the points at issue, by which "means these states have swelled to an enormous bulk, occasioned "much unnecessary expence to the parties, and much needless "trouble to the Court; and observing, that this evil chiefly proceeded from the careless and improper manner in which states "have been prepared;" therefore, a Committee was named to consider this matter, and how, and in what manner, it could be remedied, and to report; but nothing further appears to have been done at that time, and the evil has since grown to a much greater height than before.

And whereas, from the increase of business, it has become extremely difficult for any of the Judges to officiate personally in taking the depositions of witnesses, and it would often be considered as a great hardship to bring witnesses from distant parts of the country to be examined in Edinburgh; but, on that account, it is so much the more necessary that the statements of facts should be carefully adjusted, and the commission or warrant for proving, directed to persons duly qualified to act as delegates of the Court in so important a branch of its official duty; and, further, it is of importance, that proofs, when concluded, should be arranged, and laid before the Court in a proper manner, as formerly was the practice; The Lords have therefore resolved, and do hereby resolve and declare:

I. That no act, or other warrant for proving, shall henceforth go out in any cause, till a distinct statement of the disputed facts and allegations shall have been previously made, in the form of a condescendence and answers, or mutual condescendences; which papers shall be so framed, as to contain no argument or discussion of any kind, nor even any recital of the proceedings; but, taking it for granted, that the nature of the cause is already understood from the libelled summons, defences, and pleadings, shall only state, under distinct heads, or articles, the special facts and circumstances pertinent to the cause, which are alleged, and offered to be proved on either side, in order that the same may, as nearly as possible, be brought to a precise issue, and may (so far as thought material) be admitted to proof in that form, either before answer to the relevancy, or after determining upon it, as the case may require.

II. That when a commission for proving is extracted, it shall contain nothing but the libelled summons, the defences, the condescendence

scendence and answers, or mutual condescendences, framed and adjusted as before, and the interlocutors of the Lord Ordinary, or of the Court, without being mixed with argument of any kind. 1800.

III. That, if the proof is to be reported to the whole Court, the commission shall (unless otherwise ordered by the Court, upon special cause shown) be directed only to one or other of the members of the Faculty of Advocates, who are known to be resident in Edinburgh, and attending this Court, during the winter and summer sessions, and who are of more than of five years standing at the bar, or to such of the Sheriff or Stewart-deputes, who are resident in Edinburgh during the time of session, or who, when appointed commissioner in any cause, shall undertake to attend upon the Court, when the state of the proof is ready to be prepared, and while the merits thereof are under discussion.

IV. That such proofs as are to be reported to the whole Court, shall (with the exception already mentioned) be only taken during the spring or autumn vacation, in order that the Commissioners may be at liberty to attend, without inconvenience to themselves; it being always understood, that the periods of attendance, as well as the place or places where the witnesses are to be examined, shall be adjusted, at their sight, by the Lord Ordinary, or by the Court, and that they may choose their own clerk or clerks; and as the Commissioners are to act in this matter under the special authority of the Court, it is recommended to them to exercise their own judgment, in the manner of conducting the proof, and particularly to allow no matter to be introduced which is not pertinent to the cause, nor any unnecessary pleading or altercation about the competency of questions, or the admissibility of witnesses, and to check the parties, if they attempt to load the proceedings with unnecessary evidence, or superfluous matter of any kind. It is likewise recommended to them, to attend to the rules of evidence, and to give their own deliverances, either *viva voce*, or in writing, as they see cause, upon any debate which may occur; it being always understood, that their whole proceedings shall be subject to the after consideration of the Court, upon application made by either party; in order to which the Commissioner himself, or those acting for the parties, may take such notes, on a separate paper, as they think proper, for the due information of the Court; but nothing shall enter the report, but what the Commissioner himself may think material.

V. That, when proofs are allowed by any of the Lords Ordinary, to be reported to himself, especially in matters of smaller moment, or where dispatch is necessary, his Lordship may, according to circumstances, order the commission, or other warrant, to be issued, either to Commissioners of the above description, or to any Sheriff, or Stewart-depute, or substitute, or any other inferior Magistrate, or the clerk, or assistant-clerk of any court, but in no case shall allow the parties, or their agents, to name their own Commissioners; and the same regulation may be observed, even in the case of proofs to be reported to the whole Court; providing always, that this last shall only be done upon application to the Court, and

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1800. special cause shewn, such as the necessity of immediate dispatch, or that the commission is granted merely for the examination of a party, or the exhibition of writings, or to expedite matters in a judicial sale, or that the proof is to be taken in a very distant part of the country, where none of the regular Commissioners can attend; and, in all such cases, the officiating Commissioner, of whatever description, shall attend to the recommendations contained in articles IV. and VII. hereof.

VI. That, in case it shall be necessary to examine witnesses forth of Scotland, the commission shall be directed to some person duly qualified, and with and under such regulations and instructions, as the Lord Ordinary, or the Court, shall think best adapted to the circumstances of the case, and to the practice hitherto observed.

VII. That, in the course of taking the depositions, if it shall appear to the Commissioner, that any witness is not disposed to tell the truth, or behaves in any unusual manner, it is recommended to him to take a note thereof at the time, by way of assistance to his memory, in case he should be appealed to, on that subject, by either of the parties, when the proof comes to be advised; or, if he thinks proper, he may annex the same to his report of the proof.

VIII. That when the proof is reported, the same shall be laid, by the clerk of Court, before the Lord Ordinary by whom it was allowed; and, if a state is to be prepared for the whole Court, the same shall be previously adjusted by the Lord Ordinary, (or, in his absence, by the Lord President,) with the assistance of the Commissioner, if thought necessary; and it is hereby declared, that the Court, in future, will give proper attention to the ancient manner of preparing states, and will not admit into the state, any more of the pleadings than are necessary for understanding the cause.

IX. Whereas it is just and reasonable, that the Commissioner employed in taking and reporting the proof, or whose assistance may be required in preparing the state, and likewise the clerk employed in writing the depositions or the prepared state, should be recompensed for his loss of time, travelling expences, and trouble, The Lords do hereby declare, that no prepared state, or proof reported, whether to the Lord Ordinary, or to the whole Court, shall hereafter be advised, until every such expence be settled and paid, under the direction of the Lord Ordinary, or of the Court; and that a certificate of this being done shall be signed and delivered into the process, by the clerk or depute-clerk of Court, before any such advising can take place.

Lastly, This act shall endure, and be in force, until the third sederunt-day of May 1802, and no longer, unless the same shall be further continued. And they appoint the same to be recorded in the Books of Sederunt, and to be published in the usual manner.

ILAY CAMPBELL, *I. P. D.*

I N D E X
T O
A C T S O F S E D E R U N T

F R O M

12th November 1790, to 11th March 1800.

Aberdeenshire.

Interim Sheriff appointed; 2d Dec. 1795.

Adjudication, Abbreviates of.

Principal Clerks of Session authorised to sign them, under the bankrupt-act; 26th Nov. 1793.

Advocates Library.

Session papers ordered to be boxed for it; 17th Jan. 1793.

Assistants of Clerks of Session

See *Fees*.

Affize of Bread.

See *Committee*.

Ayrshire.

Interim Sheriff-depute appointed; 2d February 1793.

Bankrupt-Act.

Committees respecting it; 2d Feb. 5th July 1793.
See *Abbreviates of Adjudication*.

Bankrupt, Fraudulent.

Sentence against John Cooper and John Fotheringham; 2d June 1791.

Bell, Mr Robert.

Committees respecting his Decisions, and Lectures on Conveyancing; 12th Nov. and 17th Dec. 1796.

Bill-Chamber.

Petitions against interlocutors in the Bill-Chamber to be intimated; 15th Nov. 1796.
Act concerning Bill-Chamber; 14th June 1799.
See *Committee. Fees*.

Box-days.

Regulations respecting box-days in the spring vacation; 24th Feb. 1791.

Bursars.

Delegates appointed for naming bursars of Mr Laurence Dundas's mortification; 25th Jan. 1793.

Charity Work-house.

See *Committee*.

Citations,

Citations, Edictal.

A&t dispensing with executing them at church-doors, and recording the executions; 13th Nov. 1793.

Clerk-Register, Lord.

See *Ancient Manuscript*, and *Records*.

Collectors of Decisions.

Papers ordered to be boxed for them; 17th Jan. 1793.—Order renewed; 15th Feb. 1793.

Collectors authorised to publish Acts of Sederunt; 8th March 1799.

College of Justice.

A&t of Sederunt imposing a temporary stent of 2 per cent. upon the Members of it; 27th Nov. 1798.

Commission, Interim.

To act as keeper of register of feifins of Renfrewshire; 22d Dec. 1792.

———— Sheriff-depute of Ayrshire; 2d Feb. 1793.

———— Commissary of St Andrew's; 3d June 1795.

———— Macer in the Court of Session; 12th Nov. 1795.

———— Sheriff of Aberdeenshire; 2d Dec. 1795.

———— Sheriff-depute of Renfrewshire; 11th March 1796.

———— Sheriff of Lanarkshire; 16th Feb. 1797.

———— Keeper of the register of feifins for Kinrosshire; 4th July 1798.

———— Commissary of St Andrew's; 27th Feb. 1799.

———— Keeper of the minute-book; 17th Dec. 1799.

Committee.

To consider dues payable to keeper of Inner-House rolls, macer, and extractors; p. 1.

For repairing Inner-House; 17th June 1791.

For Charity Work-house; 29th June 1791.

For regulating assize of bread; 3d March 1792.

To assist and concur with Magistrates of Edinburgh; 23d Jan. 1793.

To report on draught of bankrupt-act; 2d Feb. 1793.

For making regulations as to late bankrupt-act, &c.; 5th July 1793.

To consider and report regulations as to transmitting processses to the Bill-Chamber from inferior courts; 13th Feb. 1794.—Two Judges named of said committee; 7th July 1796.

To inquire into the state of prisons; 19th Dec. 1795; 29th June 1799.

To consider A&t of Sederunt 11th March 1788, prolonging time of Lords Ordinary sitting in the Outer-House; 30th June 1796.

To consider the draught of a charter for incorporating the Society of Solicitors; 12th Nov. 1796.

To consider Mr Robert Bell's Decisions, &c. 12th Nov. and 17th Dec. 1796.

With regard to causes under L. 12 Sterling; 19th May 1798.

With regard to improvements on the Inner-House; 8th March 1799.

On Bill-Chamber regulations, renewed; 18th Jan. 1800.

Cooper, John.

Sentence against him; 2d June 1791.

Craigcrook Mortification.

Lord Glenlee appointed overseer of it; 6th Feb. 1798.

Darby, Hew.

Sentence against him; 15th June 1799.

Douglas, Heron and Company.

Their bond to the Court ordered to be delivered up; 3d Feb. 1791.

Dunfermline,

Dunfermline, Prison of.

Act changing it until Whitsunday 1794; 15th May 1793.

Extractors.

See *Committee*.

Fees.

Act, allowing additional fee to macers and keepers of Parliament-house; 11th March 1791.

Regulating fees of keeper of Inner-House rolls; 11th March 1791.—Continuing fees at Bill-Chamber to the present clerks' servants; 6th June 1795.

Act regulating fees payable to assistants of the Clerks of Session; 10th March 1798.

Interim act, allowing certain additional fees to Andrew Miller, depute-clerk of the bills; 10th March 1798.

Act regulating fees of assistants of the Clerks of Session; 10th March 1798.

Fines and Amends.

Act for the more speedy and effectual method of levying of them; 26th March 1794.

Fotheringham, John.

Sentence against him; 2d June 1791.

Gazette, Edinburgh.

Sequestrations ordered to be published in it; 29th June 1793.

Inner-House.

Committees with respect to repairing it; 17th June 1791, and 8th March 1799.

Inrolment of Causes.

Act concerning inrolment of causes in the Inner-House; 16th Jan. 1798.

Keeper of Inner-House Rolls.

Act regulating his fees; 11th March 1791.

See *Committee*.

Keepers of Parliament-House.

See *Fees*.

Kinross-shire.

Interim keeper of register of feifins appointed; 4th July 1798.

Lanarkshire.

Interim Sheriff appointed; 16th Feb. 1797.

Letters of Publication.

To be executed only at market-cross of Edinburgh, pier and shore of Leith, and intimated by one advertisement in Edinburgh Gazette; 13th November 1793.

Little, William Charles.

Allowed to change his surname to Gilmour; 29th Jan. 1793.

Macers.

See *Committee, Fees and Commission*.

Macleod

Macleod Bannatyne, Mr William.

Report on MSS. lodged by him ; 11th March 1798.

Magistrates of Edinburgh.

Their visitation of the Lords, and Lord President's address on the occasion ; 23d Jan. 1793.
See *Committee*.

Manuscript, Ancient.

Petition of Lord Clerk-Register respecting one found in the State Paper-Office, and procedure thereon ; 4th and 19th Dec. 1793.

Manuscripts.

Report on manuscripts lodged by Mr William Macleod-Bannatyne, advocate ; 11th March 1795.

Market-Cross.

Act removing the market-cross of Stirling ; 14th June 1792.

Miller, Andrew.

Interim act allowing him additional fees ; 10th March 1798.

Minute-book.

Interim keeper of it appointed ; 17th Dec. 1799.

Outer-House.

Act (11th March 1788,) prolonging the time of Lords Ordinary sitting in the Outer-House, continued by various prorogations ;—15th June 1791 ;—26th June 1792 ;—29th June 1793 ;—27th June 1794 ;—25th June 1795 ;—30th June 1796 ;—17th January 1797 ;—29th June 1797 ;—28th June 1798 ;—28th June 1799.

Petitions, Reclaiming.

Resolution respecting them ; 17th June 1791.

President, Lord.

His answer to the Lord Provost of Edinburgh ; 23d January 1793.

Prisons.

Committees to inquire into the state of prisons ; 19th December 1795 ; 29th June 1799.

Act changing the prison of Dunfermline ; 15th May 1793.

Processes.

Resolution with regard to causes under L. 12 Sterling ; 6th July 1796 ; 19th May 1798.

Act concerning the enrolment of processes, and returning them to the Clerks ; 16th Jan. 1798.

Act concerning the Transmission of Processes from Inferior Courts, in cases where bills of advocacy are offered ; 17th Jan. 1799.

Proofs.

Act concerning them ; 11th March 1800.

Ranking and Sale.

Acts ordaining Common Agents to lodge States ; 9th July 1791 ; 10th July 1792.

Act concerning judicial sales and rankings at the instance of creditors ; 11th July 1794.

Records.

I N D E X.

Records.

Petition Lord Clerk-Register to have certain records deposited in his office, and procedure thereon; p. 33.; 11th March 1795.

Renfrewshire.

Interim keeper of register of feifins appointed; 22d Dec. 1792.
Interim Sheriff-depute appointed; 11th March 1796.

Replies.

Acts; 10th Dec. 1777, and 5th Feb. 1783, concerning replies continued; 16th Feb. 1791.—Made perpetual; 28th Feb. 1792.

St Andrew's.

See Interim Commission.

Scot, Ninian.

Sentence against him for vitiating a bill; 24th May 1794.

Scots Law, Professor of.

Session-papers ordered to be boxed for him; 15th Feb. 1793.

Seal of Court.

10th March 1798.

Sederunt, Acts of.

Collectors of Decisions authorised to publish the Acts of Sederunt; 8th March 1799.

Sequestrations.

To be advertised once in Edinburgh Gazette; 29th June, and 13th Nov. 1793.
Sequestrations during the vacation to be inserted in the minute-book; 4th March 1800.

Session-Papers.

Papers ordered to be boxed for the Advocates Library, Professor of Scots Law, and for the Collectors of Decisions; 17th Jan. and 15th Feb. 1793.

Solicitors, Society of

Committee of the Lords to consider draught of their charter; 12th Nov. 1796.

Stent.

Act of Sederunt imposing a stent of 2 *per cent.* upon the members of the College of Justice, for the maintenance of indigent wives and families of sailors and soldiers; 27th Nov. 1798.

Stirling, Market-Cross of,

Act removing it; 14th June 1792.

Two-penny Act.

Lord Methven named one of the arbiters in it; 27th June 1799.

Writers' Clerks, &c.

Procedure on their petition; 29th Jan. 1800.

THE UNITED STATES OF AMERICA
DO hereby certify that
[Name] is a citizen of the United States of America.

Witness my hand and the seal of the Department of State at Washington, D.C., this [Date] day of [Month], 19[Year].
[Signature]
[Title]

THE
ACTS
OF
SEDERUNT
OF THE
LORDS OF COUNCIL AND SESSION,
FROM THE
11TH JULY 1800, TO 7TH MARCH 1810.

Published by Authority of the Court.

EDINBURGH:
PRINTED FOR MANNERS AND MILLER,
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1815.

THE UNIVERSITY OF CHICAGO

DEPARTMENT OF THE HISTORY OF ARTS

OF THE UNIVERSITY OF CHICAGO

CHICAGO, ILL.

ACTS
OF
SEDERUNT
OF THE
COURT OF SESSION.

July 11. 1800.

Act of Sederunt respecting the Poors Roll.

THE Lords considering That, whereas the regulations contained 1800. in the act of sederunt 10th August 1784, concerning the poors roll, have in general proved salutary and useful, but it is necessary that some additions should be made thereto, in order to render them still more effectual: The Lords of Council and Session do therefore enact and ordain,

1mo, That the whole of the regulations contained in the said act of sederunt shall in future be strictly enforced.

2do, That the certificate required by article second shall, besides what is therein prescribed, set forth more particularly the situation of the party applying for the same, what occupation or business the said party follows, what are his or her reputed circumstances and character, how long resident in that parish or place, whether with or without a family, and whether known to be engaged in any other process or processes at the time.

3tio, That, besides the intimations required by article third, a certificate under the hands of a notary public, sheriff-officer, or other officers of the law, shall be produced along with the petition, bearing that intimation has been made to the adverse party, or his known agent, at least ten days previous to the date of presenting the petition, signifying the petitioner's intention of making such application, with the extent and nature of the demand; and when the petition is remitted to the advocates and writers for the poor, they shall delay making their report for the space of fifteen days at least, after such remit, in order that there may be an opportunity of receiving full information from both parties upon the subject.

4to, That the names of the advocates and writers, to whom such cause is remitted, shall, if the party be admitted to the poors roll, be marked on the margin of the summons or defences, and on the back of every subsequent paper given in for that party in the cause; and no enrollment shall be made, except by the agent appointed as above,

A

nor

1800. nor in any other name, except that one or other of the counsel so appointed, and the word "poor," shall be prefixed to the name of the said party in every paper given into Court.

5to, That no other counsel or writer than those already appointed as above shall be employed, or allow their names to be used in any stage of the cause, unless upon application to the Lord Ordinary, or to the Court, by a note or petition, signed by the counsel and agent already appointed; the assistance of one or other of the writers or advocates respectively for the poor, shall be specially authorized, in which case those first appointed, and those who are so assumed, shall thereafter act conjunctly in the business.

6to, That in case of neglect or failure in any of the particulars specified in the two immediate preceding articles, the further proceedings in the cause shall, at any time when objected to by the other party, be liable to be opened up and set aside, or the Court may apply such other remedy as the circumstances of the case shall be thought to require.

7mo, In order that the fate of every application for being admitted on the Poors Roll may be known to all concerned, and that there may be no improper renewals or concealment of former applications, there shall be kept in the office of the junior clerk of Session, a record, in which shall be entered alphabetically the name of such petitioner, with a short abstract of the petition, and the deliverance of the Court upon it; which entry the agent who conducts the application shall cause to be made, and for which a fee of one shilling shall be made to the person who has the trouble of keeping the record; and this book shall be made patent to every person concerned, to take excerpts therefrom for the like fee of one shilling.

And appoint this Act to be entered in the Books of Sederunt, and printed and published in the usual manner.

ILAY CAMPBELL, *I. P. D.*

Eo. die.

Act of Sederunt, for continuing and explaining the Acts of Sederunt 11th March 1788, and 17th June 1791.

AS also, The Lords of Council and Session, considering that the Act of Sederunt 11th March 1788, for, "prolonging the time of the Lord Ordinary's sitting in the Outer-House," was only past for a limited time, and has since been continued from year to year, do now enact and ordain, that the same shall be made permanent, with the following explanations:

1st, That the nine last sederunt days of the Winter Session, and the seven last sederunt days of the Summer Session, shall be understood to be excepted from the regulations therein prescribed.

2d, That it shall be in the power of the Court to advise other causes on the Tuesdays, than those concerning Innerhouse interlocutors, when the state of the business requires that this should be done.

The Lords also declare, that the resolution 17th June 1791, about reclaiming petitions, shall be subject to the discretion of the Court upon
cause

cause shown, during the last fourteen sederunt days of each winter 1803. or summer session.

And appoint this act to be entered in the books of sederunt, and printed and published in the usual manner.

ILAY CAMPBELL, *I. P. D.*

9th June 1803.

Act of Sederunt in favour of the Lords' Clerks.

THE Lords having taken into consideration the act of sederunt 1st August 1789, whereby the fees of their clerks, who are very necessary and useful officers of the Court, are regulated; but in which no provision is made for the case of any of the Lords being necessarily absent from the Court, or excused from attendance in the Outer-house and Bill-chamber, on account of age or infirmity, in which case no emolument arises to his clerk, who, at the same time, continues bound to discharge the duties of his office; and being also informed that the said clerks have, by contribution among themselves, raised a small stock, out of which they are enabled to afford some relief to their families in particular circumstances, but which is far short of being adequate to the useful purposes thereby intended; and the Lords being willing to give encouragement to so laudable an institution, and, at the same time, of opinion that it is for the interest of the country, and the credit of the Court, that they should have it in their power occasionally to relieve one or more of the senior Judges from the fatigue of attendance in the Outer-house and Bill-chamber, without doing material prejudice or injustice to any officer of the Court; they do therefore hereby resolve and ordain, That, from and after the 10th current, there shall be paid to the keeper of the Outer-house Rolls, for the use of the said clerks, a fee of sixpence upon the first enrolment of every cause in the Outer-house, in addition to the dues already exigible upon such enrollment, and also a fee of sixpence upon the presenting of every bill of suspension or advocacy in the Bill-chamber; to be collected by the deputy-clerks of the bills, in addition to the dues already exigible upon such bills: which additional fees in the Outer-house and Bill-chamber shall be accounted for by the said collectors of them to the persons who act as trustees upon the common fund already belonging to the said clerks, and shall be applied, from time to time, under the direction of a committee of the said Lords, to be appointed by the Court as occasion may require, for the purposes before mentioned, and at the discretion of the said committee. And appoint this act to be entered in the books of sederunt, and printed and published in common form.

(Signed) ILAY CAMPBELL, *I. P. D.*

Thereafter the Court named Lords Balmuto, Hermand, and Woodhouselee, as a committee of their number, for the purposes mentioned in said act of sederunt, of whom any two to be a quorum, and Lord Balmuto convenor.

9th

1803.

9th July 1803.

Act of Sederunt increasing the Fees upon Plack Bills.

THE Lords having taken into their consideration, that, by the operation of certain regulations in the Bill-chamber, the fees and emoluments drawn by William Scott, in the department of assistant or clerk's servant in the Bill-chamber, have been considerably reduced: That the execution of his office is well known to require great labour and fatigue, and constant attendance, for which the present sum received by him annually is not an adequate recompence, and that, for fifteen years past, he has proved himself to be a very diligent and deserving officer: And also considering, that the proportion of the increased fees, on the bills commonly called the Plack Bills, allowed by act of sederunt 26th May 1795, to the two depute-clerks, whose principal department is to record abbreviates of adjudication, recover caution in law-burrows, and loosing arrestments, has been found inadequate to their trouble and responsibility in writing upon the plack bills, alternately with Andrew Miller, the depute-clerk of the bills, each taking a month in rotation, and that their emoluments from recording abbreviates of adjudication have also been diminished by the provisions relative to adjudications in the late statutes concerning bankrupt estates: Therefore, the said Lords do hereby enact and ordain, That, from and after the date hereof, the said William Scott shall be authorized to exact an additional fee of twopence upon each of the bills commonly called Plack Bills, making the whole sum payable for the same threepence each, and an additional fee of sixpence upon each of those bills presented at extraordinary hours, making the whole sum payable for extra bills one shilling; which additional fees the said William Scott is hereby allowed to apply to his own use alone; excepting always the sum of thirty-two pounds Sterling per annum, which he is hereby ordained to pay to the two present depute-clerks, James Mercer and John Watson, equally between them, being sixteen pounds Sterling each, as a further remuneration for their trouble in writing upon the plack bills, over and above the addition allowed to the clerks in that department by the act of sederunt already mentioned. But declaring, that this act shall continue to be in force only during the life of the said William Scott, or till some more permanent arrangements can be made, and shall be subject at any time to be recalled by the Court. And appoint this act to be entered in the sederunt book, and printed and published in the usual form.

ILAY CAMPBELL, *I. P. D.*

Petition of the Sheriff of the County of Selkirk.

11th February 1804.

*Unto the Right Honourable the Lords of Council and Session,**The Petition of Walter Scott, Sheriff-depute of the County of Selkirk, and the Magistrates and Town Council of the Burgh of Selkirk,**Humbly Sheweth,*

THAT the jail of Selkirk having become utterly ruinous, the Magistrates and Council are at present, with the assistance of public subscription, engaged in erecting a new jail and bridewell. In meantime, there is no proper place of confinement in the county; and in the event of any prisoners being presented to the petitioners before the new building is finished, it will be necessary that the petitioners be authorized to transport them elsewhere. The nearest prison is that of Jedburgh; and it is the object of this petition to procure your Lordships' authority for transporting thither such persons as may be presented during the building of the new prison, the burgh of Selkirk paying, as is reasonable, the expence of transporting the prisoners to Jedburgh, and all other expences which may be incurred in their maintenance or otherwise, just as if they were confined in Selkirk. 1804.

May it therefore please your Lordships to grant warrant to the petitioners for transporting to the jail of Jedburgh such prisoners as may be presented to them before the new jail of Selkirk is habitable; and to ordain this petition, with your Lordships' deliverance thereupon, to be engrossed in the books of sederunt.

According to Justice, &c.

(Signed) WALTER SCOTT.

Edinburgh, 11th July 1804.

The Lords having heard this petition, they grant warrant to, and authorize the petitioners to carry to the jail of Jedburgh, such prisoners as may be presented to them, before the new jail, now building at Selkirk, is habitable; and grant warrant to, and authorize the Magistrates of Jedburgh to receive them; and dispense with the minute-book; and ordain this petition and deliverance to be recorded in the books of sederunt; the petitioners always relieving the magistrates of Jedburgh of the expence of the prisoners they shall receive.

ILAY CAMPBELL, I. P. D.

1805.

14th December 1805.

Act of Sederunt, relative to the Act of Parliament 33d Geo. III. c. 74, for rendering the Payment of Creditors more equal and expeditious.

33 Geo. III.
c. 74.

39 Geo. III.
c. 53; and
44 Geo. III.
c. 24.

WHEREAS, by an act of the Parliament of Great Britain, passed in the 33d year of his present Majesty, intituled, "An act for rendering the payment of creditors more equal and expeditious in that part of Great Britain called Scotland," and continued by two other acts in the 39th and 44th years of his Majesty, it is *inter alia* provided, "That it shall and may be lawful for the Court of Session, to establish such regulations as shall appear to be most proper for carrying this act into effectual execution, according to the true intent thereof; and to publish the same in any act or acts of sederunt, which shall be binding in so far as is consistent with this act." And whereas the said act of Parliament has, by experience, been found to contain a very useful and beneficial system of rules, applicable to the insolvency of debtors, and to the relief and security of creditors, as well as to the management and division of the estates of bankrupts; but which may be further improved and rendered more effectual, by the following regulations, explanatory of the statute, and consistent with its true intent and spirit: the Lords of Council and Session do therefore, in exercise of the power committed to them by the foregoing clause, **ENACT and DECLARE,—**

I. That where any person against whom legal diligence is meant to be executed, or who is to be cited as a party in any judicial proceeding, has left the ordinary place of his residence, which may render it doubtful whether he is within the kingdom of Scotland or not, and consequently whether the charge or citation against him ought to be executed at his dwelling-house, or at the market-cross of Edinburgh, and pier and shore of Leith, when he is not personally found, it shall, in time coming, be held and presumed, that the said person, after forty days absence from his usual place of residence, but not sooner, is forth of the kingdom of Scotland; and therefore, that within the said forty days the citation or charge may be at his late dwelling-house; but, after that period, must be at the market-cross of Edinburgh, and pier and shore of Leith, unless he be personally found, or, prior to the execution, shall have taken up some other known and fixed residence within Scotland.

II. That whereas, by the 2d section of the statute, it is enacted, that "when the debtor is out of Scotland, or not liable to be imprisoned, by reason of privilege or personal protection, a charge of horning executed against him, together with either an arrestment of any of his effects, not loosed or discharged within fifteen days, or a poinding executed of any of his moveables, or a decree of adjudication of any part of his estate, for payment or security of debt, shall, when joined with

“ insolvency, be sufficient proof of notour bankruptcy ; and from and 1805.
“ after the *last step* of such diligence, the said debtor, if insolvent, shall
“ be holden and deemed a notour bankrupt :” which descriptions have, in some respects, been considered as not sufficiently precise,—it is hereby declared, that by the last step of diligence is meant, in the case of arrestment, the date of the execution of arrestment, (the same being always not loosed or discharged within fifteen days thereafter ;)—in the case of poinding, the date of the execution of poinding, under the condition always of the same being duly followed out, as provided for in the next article ;—and in the case of adjudication, the date of the decree of adjudication ; and that it shall make no difference whether the arrestment or poinding have proceeded on the same debt for which the charge referred to has been given, or any other debt.

III. That the sale or delivery of poinded goods, ordered by section 5th of the statute, shall not be upon a shorter notice than eight free days, nor longer than twenty days, from and after the day when the order was given ; and the note or minute thereby also directed to be kept by the clerk, shall be lodged with him, and marked as so lodged, within eight days after such sale or delivery ; which steps being duly taken, the poinding shall be held complete, and the property transferred, as of the date of the execution of poinding ; but if any of them are omitted, or not taken at the times, and in the manner before specified, the diligence shall only be considered as inchoated, and not as complete, till the minute of sale or delivery is lodged in the hands of the clerk, and marked by him.

IV. That the form of *summoning* required by the 6th section of the statute, shall be understood to comprehend every other sort of judicial claim made by a co-creditor against the poinding creditor, or in competition with him, although in a process raised by others.

V. Whereas, in section 18th of the statute, an exception is made of “ *landholders and tenants* of land, or husbandmen, if such persons “ be not otherwise *bona fide* under one or other of the foregoing descriptions ;” but many questions have arisen concerning the situation of tenants of land, who, at the same time, deal in buying and selling cattle, which every tenant must do to a certain extent, especially tenants of grazing or pasture farms, it is hereby declared, that the Court will not, in time coming, sustain the competency of applications made for sequestrating the estates of landholders, or tenants, who deal in cattle, unless they shall *bona fide* be of the description of traders in cattle, gaining, or seeking to gain, their livelihood, or a material part thereof, by dealing in cattle not the produce of, or grazed upon their own farms : and it is hereby declared, that no trader of this description shall, without the concurrence of his whole creditors who have produced interests, be entitled to a discharge under the act of Parliament, unless he shall have kept an intelligible book or books, or statement of accounts, in which his transactions are entered, and shall have regularly produced the same in the sequestration.

VI. Whereas, it is often attended with great inconvenience, that latent partners of a company do not come forward, but remain unknown when the sequestration of a company’s estate is awarded,—it is hereby

1805. hereby declared, that any partner of a company, whose name does not appear in the books of the company, or who shall not come forward and acknowledge himself as a partner, on or before the day appointed for the first examination of the bankrupt partners, or any of them, such person shall not be entitled to any of the benefits or privileges of the said act, in case it shall afterwards be discovered that he was truly a partner in that concern, unless he can make it appear, to the satisfaction of the Court, that this omission proceeded entirely from innocent mistake, or ignorance of the proceedings; and shall do every thing in his power to remedy the loss and inconvenience thence arising.

VII. And whereas it has too often happened, that, in the choice of an interim-factor, and afterwards of a trustee and commissioners; and particularly in the election of a trustee, different candidates have appeared, and thereby disagreeable contests have taken place, which occasion much litigation in this Court, and much unnecessary delay, trouble and expence, which ought in future to be avoided,—it is hereby declared, that, in time coming, when such contests happen, and applications relative thereto are made, either to the Lord Ordinary on the bills, in time of vacation, or to the whole Court in time of session, in any case of electing either interim-factor, trustee, or commissioners, in terms of the said statute, the Lord Ordinary, or the Court, will remit to the Sheriff of the county where the meeting was held, or to any other advocate, of three years' standing, or upward, to examine into the circumstances, with power to receive such written proofs as may be offered, and, upon the whole, to report concerning the merits of such election, within a reasonable time, to be fixed by the interlocutor making the remit; and the judgment of the Lord Ordinary, or of the Court, upon such report, shall be final and conclusive, so far as regards the interim-possession of the office to which the person preferred shall immediately be admitted; and if any application shall afterwards be made to the Court, for altering such judgment, one interlocutor of the Court, upon advising the same, with or without answers, shall be, to all intents and purposes, final; and no reclaiming petition shall be received against the said judgment: and further, the expence of all such contests shall be laid wholly upon the losing party, and no part thereof upon the bankrupt estate; and it is further declared, that claimants upon contingent debts are not to be counted, either in number or value, in any such elections.

VIII. Whereas, by section 23d of the statute, it is enacted, that if the bankrupt shall, without a *reasonable cause*, neglect or refuse to obey the order given by the Court, for executing a disposition or other deed of conveyance of his estate, the Court may punish him by imprisonment; and whereas disputes have sometimes arisen upon the import of the words 'reasonable cause,' it shall, in time coming, be understood, that no cause is to be sustained as reasonable which the bankrupt has it in his power to comply with, if so inclined.

IX. In explanation of section 24th, it is declared, that the conveyance or transfer of the heritable estate, whether by disposition or by the
statutory

statutory adjudication, shall be held complete, so far as regards all the objects and purposes of the statute in ranking the creditors, and dividing the funds, without being followed out by charter and sasine; and that the assignment of the moveable or personal estate, shall, in like manner, and from the same period, be held complete, without intimation, or possession actually obtained. It is likewise hereby explained, that the words 'adjudication to be sequestered,' on the margin of section 24th, are only a typographical error for '*adjudication to be recorded.*' 1805.

X. That the *pari passu* preference of arrestments and poindings, whether under the general clauses, sections 3d, 4th, 5th, and 6th, of the statute, or under the 31st clause, which relates to sequestration, shall be without prejudice of any claim of preference which arresters or poinders may be entitled to in competitions with prior voluntary assignments, not intimated till posterior to the execution of such arrestments or poindings; it being always understood, that arrestments or poindings, within sixty days before the date of the first deliverance, are to operate for behoof of the creditors at large.

XI. Whereas, in section 35th, the trustee is directed to make up a state of the debts, calculating interest on each up to the date of the first deliverance on the petition for sequestration,—it is hereby declared to be the meaning of this part of the act, that the principal sum of each debt, together with the bygone interest due upon it, if there be any, shall be accumulated as at the date of the said first deliverance, for the purpose of being ranked, and receiving its share of the first dividend corresponding to such accumulated sum, along with the principal sums of such debts as do not bear interest, or from which there may be a discount of interest, as not being exigible till an after period, and the second, and other dividends, shall, in like manner, be applied in extinction *pro tanto* of the sums thus ranked, without counting interest upon them from the date of the said first deliverance: but if there be any residue left of the sequestrated funds, after discharging the whole of such sums, the creditors shall also be entitled to claim, out of such residue, any arrear of interest which may still be due to them, as arising since the date of the said first deliverance upon the respective sums ranked and stated as before; and this explanation is also applicable to section 46th of the statute.

XII. Whereas the liberty given by the said 35th section of the statute, to apply to the Court of Session for a summary determination in certain cases, has been frequently misunderstood, so as to give occasion to premature and unnecessary applications,—it is hereby declared, that it is the duty of the trustee to exercise his own judgment, in receiving or rejecting claims, leaving it to others to complain, if they are so advised; and he shall only be entitled to apply in his own name, where the business cannot otherwise be extricated: and further, that in all cases of application to the Court, under the statute, which are remitted to an Ordinary to be discussed, only one representation to the Lord Ordinary will be allowed, without prejudice to reclaiming in common form to the whole Court, where the expence will be laid upon the party who has been to blame, if the cause shall appear to be not yet sufficiently prepared for judgment.

1805. XIII. Whereas, in section 39th of the statute, the sense is rendered obscure by the omission of a word in the middle of the clause as printed, as well as by an inaccurate use of the word '*dispute*,'—it is hereby declared, that the meaning of the clause is as follows: "That in all cases where the creditor does not agree to the full amount of the sum specified in his lien or security being deducted, or where the value of the subject pledged is liable to any uncertainty, the trustee, with consent of a majority of the commissioners, shall put a value upon such security or lien, and the claimant shall have an option," &c. as expressed in the remaining part of the clause.

XIV. That in ranking company creditors upon the separate estates of individual partners, it shall be competent for the trustee, with concurrence of the Commissioners, either to follow the rule laid down in section 38th of the statute respecting contingent claims, or to proceed according to the rule pointed out in section 39th, as now explained, with regard to preferable liens, as the justice and expediency of the case may require; subject always to the correction of the Court, if any thing wrong shall appear to have been done, upon the application of those interested. *

XV. Whereas, by section 60th of the statute, provision is made for discharging the trustee, without saying how the balance of money, if there be any in his hands, shall be disposed of, it is hereby declared that such balance shall be consigned or made over, in such way and manner as the Court of Session shall direct, in the particular circumstances of any such case, in order that the same may be duly applied to the payment, either of unclaimed dividends, within a certain reasonable

* In the case of *Campbell contra Blaikie*, November 18, 1796, the Court, in the first place, unanimously found, "that the company creditors could only be ranked on the private estates of the partners for the balance remaining due, after deducting what they had drawn or might draw from the estate of the company." In applying this judgment, the question next occurred, which of the two rules above-mentioned should be followed. The latter was thought, in some respects, to be preferable, as the business of the sequestration might be thereby more speedily ended; but in a petition from the trustee, it was set forth, that, in the circumstances of the case, there would be some inconveniences attending that mode of proceeding; for "if the company creditors should accept of the estimated values, the creditors of the individual partners may not be able to pay the company creditors in cash; and should they find the means of advancing the money, it must be under a certain great hardship, because the number of the private creditors, and the amount of their claims, as well as their funds, are small, when compared to the company creditors' debts and funds, and so far they are not in a capacity to meet the company creditors on an equal footing; and this inconvenience would make it necessary for the trustee and commissioners to estimate that part of the company's funds beneath their real value, by which a loss would be brought on the creditors of the individual partners." Upon this the Court (November 30, 1796,) found, "that the petitioner fails to consider the claims of the creditors of Ramsay, Smith, Graham, and Co. as a company, on the estates of the individual partners, merely as contingent ones, and ordain him, agreeably to the 38th section of the Bankrupt Statute, passed in the 33d of his Majesty's reign, to deposit a sum equal to the interim dividends which he is about to pay from the private estates, corresponding to the balance of the company debts, after deduction of three shillings per pound already paid; and afterwards to reduce the sum deposited from time to time, in proportion to the dividends to be made from the company estate, until the whole be finished, so as thereby to ascertain the exact amount of the ultimate claim of the company creditors on the individual estates."

sonable period, or of balances remaining due to the creditors in general; or, in case of any free residue, to such person or persons as may be entitled thereto, according to the rules of law and justice. 1805.

XVI. That, in time coming, no discharge under the statute shall be granted to the bankrupt, except by the whole Court; and no discharge or exoneration shall be granted to the trustee, unless he shall have punctually complied with the regulations in section 58d of the statute, and shall also have transmitted to the clerk the vouchers of payment of the dividends made by him to the several creditors ranked upon the bankrupt estate, or of the consignments thereof, in one of the books, assigning also the reason why such consignments have been made.

XVII. Whereas the business of sequestration is often carried on in a very dilatory manner, it is hereby declared, that, in time coming, after three years are elapsed from the date of the said first deliverance, the Court will, upon application from any one concerned, and after due notice given, by such form of publication as may be thought requisite, fix a reasonable time, within which the whole proceedings shall, if possible, be finally closed; and the time so fixed being elapsed, if there be no further application from the trustee, or any of the creditors, the sequestration shall be considered as virtually at an end: but in case such application shall, in the mean time, have been made by any one concerned, the Court will judge, according to circumstances, what farther directions ought to be given, so as within a short limited time to attain the object in view.

XVIII. Whereas the 63d and 64th sections of the statute evidently intend, that all who have received discharges under any preceding act of Parliament, shall stand upon the same footing with those who have been discharged under the present act,—it is hereby declared, that such is truly the meaning of the statute, and that no distinction, as to future acquisitions, or as to privileges of any kind, will be allowed between those who have been discharged under any preceding act or acts, and those who have obtained their discharges under the statute now in question, the former being entitled to the precise same benefits and advantages with the latter.

December 12, 1805.

And the Lords appoint this act to be entered in the sederunt-book, and printed and published in the usual form.

ILAY CAMPBELL, *I. P. D.*

Signed December 14, 1805.

6th February 1806.

Act of Sederunt, relative to Accounts of Expences, and establishing the Office of Auditor of Court.

THE deputy-keeper of the signet, and a committee appointed by the society of writers to the signet, having presented to the Court a report made to that society by a committee of their number, relative to the fees of judicial proceedings in the Court of Session, suggesting certain alterations on the present mode of stating accounts of expences, to

1806. to which they were desirous of having the authority of the Lords of Council and Session interponed by an Act of Sederunt, if the same appeared reasonable to the Court; and the Lords having accordingly taken the said report under consideration, and thinking it expedient to make a trial of the plan therein proposed for a limited time, they do therefore enact and ordain as follows:

1mo, That, during the period after mentioned, the present manner of stating accounts of expences shall be altered, by discontinuing the general charge of agency or session-fee to the agent, and substituting in its place certain specific charges for the different articles of trouble and attendance in conducting any law business before this Court.

2do, That, when a writer to the signet, solicitor, or agent, is applied to for the purpose of raising a process, or introducing it into Court, or appearing in defence, whether the same be an ordinary action, a suspension, an advocacy, or a summary application to the Court, he shall be entitled to state a fee, not exceeding 15s. for making out and producing a mandate on stamped paper to appear for his client, and for attending to all the necessary steps of form previous to the first enrolment of the cause in the Outer or Inner House; deducting always, in the case of suspensions and advocations, 6s. 8d. being the first fee allowed in the Bill-chamber proceedings.

3tio, For drawing a memorial or brief, containing a statement of the case for the information of counsel, a fee may be charged of 6s. for the first sheet, and 4s. for every after sheet; and when, in the progress of the cause, any farther instruction, in point of fact, shall become necessary, the same may be shortly stated in the form of an additional brief, or note, without any repetition of the former statements, or quotations from proofs, or papers already in process, for which additional brief similar charges shall be allowed. But there shall be no additional charge for writing the scrolls of papers; nor shall there be any charge for making out an account of expences.

4to, A fair copy of each memorial, brief, or note to counsel, for the use of the agent, may be allowed, upon being produced to the auditor of accounts after mentioned; and for this, and all other necessary copies of papers, there shall be allowed at the rate of 1s. per sheet. But all papers, so drawn or copied, shall consist of not less than 260 words in a sheet, or two folio pages, all numbers, dates, and sums, being written in figures, and each separate number being reckoned as a word; *ex. gr.* 1st January, two words; 1st January 1806, three words; L. 10,000, one word; L. 10,000, 10s. two words; L. 10,000, 10s. 10d. three words; and if there shall happen to be a part of a sheet, the same shall be counted as half a sheet, whether it be in fact more or less. And whereas it is necessary for the Clerks of Session and Extractors to make an additional allowance to the persons employed in writing for them, they shall therefore be entitled to charge 2d. per sheet, both on the copy inserted in the record, and on the extract given out, in addition to their present fees; the sheet always consisting of the number of words established for extracts.

5to, Each necessary enrolment by either party, including attendance at the calling of the cause, if the pleading or advising does not exceed

ceed an hour in length, shall be charged at 6s. 8d. ; but there shall be no additional fee for giving notice of the enrolment to the opposite agent, in manner after directed, nor for a note to prepare counsel to attend the calling, unless the same contain some new matter in point of fact, and necessarily exceed one page.

6^{to}, Each necessary attendance on business with a client, or on his account, such as attending at a consultation of counsel, or on taking a proof, or in searching records, not exceeding an hour in length, to be charged at 6s. 8d. and the charge to be progressively higher, according to the length of time occupied, but in no case to exceed a charge of 6s. 8d. for each hour employed, nor L. 2 for a whole day. Attendance on pleadings or advisings in Court (other than those in the preceding article), to be charged in the same manner.

7^{to}, Writing each necessary letter, of an ordinary length, including booking, 3s. 4d. ; and when the letter enters into detail, and necessarily exceeds the above length, the charge may be progressively higher, according to the length ; but in no case to exceed the charge for drawing a brief of the same length ; and no letter to be charged unless it has been fully booked.

8^{vo}, Borrowing a process, the same fee that is allowed to the assistant clerk by act of sederunt.

9^{no}, Returning a process, comparing the same with inventory, and getting receipt scored, - - - L. 0 1 0.

And the same fee to be allowed to the assistant-clerk, whether in the Inner or Outer House.

10^{mo}, Revising and intimating Outer-House papers drawn by counsel,

Not exceeding 20 pages,	-	-	0 2 6
Above 20, and not exceeding 40,	-	-	0 5 0
Above 40, and not exceeding 60,	-	-	0 10 0
If longer than 60,	-	-	0 15 0

11^{mo}, Revising and correcting proofs of printed papers, and boxing ditto,

Exceeding 3 pages, but not exceeding 20 pages of print,	-	-	-	0 6 8
Above 20, and not exceeding 40,	-	-	-	0 13 4
Above 40,	-	-	-	1 0 0

12^{mo}, Lodging clerk's copy of ditto, and inrolling in Inner-House rolls, 5s.

13^{to}, Putting up protestation for production of a summons, or letters of suspension or advocacion, at the minute-book, 5s.

14^{to}, Intimating incidental petitions, and for writing the certificate of intimation, 3s. 4d. ; and where the petition is intimated to more parties than one, each additional intimation 1s.

15^{to}, Attendance and inquiries as to a cause at *avisandum*, 3s. 4d.—
This to be in full of all such inquiries.

D.

BILL-

1806.

BILL-CHAMBER PROCEEDINGS.

1. Entering appearance, and making out and producing a mandate on stamped paper, 6s. 8d.
2. Procuring sist, and returning bill to the Bill-Chamber, 2s. 6d.
3. Ordering copy of bill for the respondent, 2s. 6d.
4. Lodging and intimating each paper or note to the Lord Ordinary, 2s. 6d.
5. Taking out bond of caution, getting it executed, and returning it, 2s. 6d.
6. Inspecting books, and making inquiries whether answers or replies have been lodged, 3s. 4d.
7. Inspecting books for Lord Ordinary's interlocutor, and getting copy thereof, or certificate of refusal, 3s. 4d.—The two last articles not to be charged oftener than once in the same cause.
8. Intimating reclaiming petition from Bill-Chamber, and writing certificate of intimation, 3s. 4d.

And whereas it sometimes happens, that papers are given in to the Court, or to the Lord Ordinary, which have not been drawn by counsel, although signed by them, and fees are even stated to the agent for such papers—It is hereby declared, That no fee shall be allowed to an agent for drawing any paper, except short representations to be reponed, when such are allowed by the Lord Ordinary, or petitions in mere point of form, without argument.

The Lords do further ordain, That every agent, upon inrolling a cause, or lodging or boxing a paper, shall give notice to the opposite agent of his having done so, and of the purpose of the enrolment, by a written or printed billet, to be delivered on the day such step is taken, for which no fee shall be charged.

They also ordain, That every party failing to fulfil an order of Court, or to return a process to the clerk on the afternoon preceding the calling, in terms of the act of sederunt, of date January 16, 1798, shall pay the expence thereby incurred by the other party, recoverable by a summary warrant, which shall not be dispensed with, and shall be final; and the other party shall be entitled to object to his being heard, or taking any step in the process, till the same is paid.

The Lords declare, That these regulations shall continue in force for the space of one year from the date hereof, the accounts of expences for business done from the beginning of the present session being made out agreeable thereto; and that the accounts of expences made out under them shall, as heretofore, be subject to the controul of the Court: And further, That when expences are found due, either in the Inner or Outer House, or in the Bill-Chamber, the account shall, by the same interlocutor, be remitted of course to Mr Thomas Guthrie Wright, writer to the signet, who is hereby appointed *Auditor of Accounts to the Court* during the above period, to whom the clerk shall immediately transmit the process, and the agent give in the account of expences; and the said auditor shall cause a copy of the account to be made, which shall be served on the opposite agent, along with a warrant from him, for the parties or their agents to attend at a particular

cular time to be specified, for the purpose of having the account 1806. taxed, under certification; and he shall thereafter examine and tax the account according to the foregoing regulations, and make a report thereon to the Court or to the Lord Ordinary, as the case may be; with power to the said auditor to hear the agents for the parties, but without written objections or written argument of any kind; and to call for production of all vouchers of articles stated in such accounts; and particularly for production of the briefs, memorials, or notes to counsel, on the back whereof each fee paid to the counsel shall be marked, and attested by his initials, or those of his clerk; and for all other fees, certified notes by the counsel, or his clerk, shall be produced. And in case either party means to object to the report of the auditor, he shall immediately lodge with the clerk a note of his objections, stating them shortly, and without entering into argument; a copy of which note shall be transmitted by him to the agent on the other side; and the Court, or the Lord Ordinary, may either direct the same to be answered in writing, or *viva voce* at the bar, as the case may require, the expence of such discussion being always laid upon the objector, in case his objection shall not be sustained; and the interlocutor to be pronounced shall be final.

And for the purpose of preventing abuses of the foregoing regulations, and in order to provide an easy method, by which the accounts of practitioners, as between *Agent and Client*, in this Court, may be checked and liquidated, the Lords do further ordain, That it shall be competent, either to the client or to the agent, to make a summary application to the Court, or to the Lord Ordinary, before whom the cause may depend, or has formerly depended, to get the account claimed by the agent remitted to the auditor of Court, in order to be examined and taxed according to these regulations; which remit shall, on the application having been served on the opposite party, and produced in Court with a written intimation, be forthwith granted; and the auditor shall thereafter inquire and report upon the said account to the Court or the Lord Ordinary; and the parties shall have it in their power to state objections to the report, all in manner above mentioned. And the sum so to be ascertained as the amount of the account, shall alone form a charge against the client. And a precept or decree on a charge of fifteen days may issue accordingly, in which only the application, remit, report, and interlocutor of modification, shall be inserted; without prejudice always to the clerks of Session to insist for full extracts being taken out in the principal cause, or for a composition for the same, as heretofore. And it is hereby enacted, That these proceedings may take place either during the dependence of a process, or after it is out of Court by an extracted decree. And whenever an agent, or his representatives, shall rather choose to raise a summons for payment of an account, the Lord Ordinary before whom the process may come shall remit the account to the auditor of Court; and no decree shall be pronounced, either in absence or after having heard parties, without a report having been made by the auditor.

And whereas it is necessary and proper that the auditor should have a reasonable fee for his trouble, but the precise amount of such fee

1806. fee cannot well be settled beforehand, and must in some measure depend on circumstances, it is hereby ordained, That unless the parties agree upon it, the Court, or the Lord Ordinary, to whom the report is made, shall fix the amount of the fee, which shall be added to the account of expences, without prejudice to the auditor being entitled to recover the same from either party.

Lastly, It is hereby understood, that outlays of money by the agent, fees to counsel, and dues of Court, or other such necessary expenditure in a cause, may be stated as usual. But in all cases where expences of process are laid upon one of the parties, care shall be taken not to allow unnecessary expenditure, or higher charges of any kind, than the nature of the business may require, although authorized by the employer.

And the Lords appoint this act to be entered in the sederunt-book, and printed and published in the usual form.

ILAY CAMPBELL, *I. P. D.*

February 6, 1806.

Act of Sederunt. allowing certain additional fees to be exacted by the Assistants of the Principal Clerks of Session.

THE Lords considering, that, by the operation of the act of sederunt of date the 11th March 1800, "concerning proofs," the fees and perquisites of the assistants of the principal Clerks of Session have been considerably reduced; and that by another act of sederunt, 10th March 1798, entitled, "An act for regulating the fees payable to the assistants of the Clerks of Session," certain additional fees were allowed to the assistants of the deputy-clerks in the Outer-House, but which do not apply to the assistants of the principal Clerks of Session in the Inner-House, although it is reasonable and proper, on account of the alteration occasioned by the act of sederunt first above mentioned, that some new or additional allowances should be made to the assistants of the Principal-Clerks in compensation for the loss sustained by them as already noticed; Therefore the Lords do hereby authorize and allow the assistants of the Principal Clerks of Session, to exact the following additional fees and perquisites, in their respective offices, from and after the date hereof, during the pleasure of the Court, viz. 1st, An additional fee of one shilling at lodging or lending up slips of processes or productions, or giving out copies of interlocutors, and for all transmissions of processes, and outgivings to extractors. 2d, A fee of two shillings for every entry in the Inner-house minute-books, except judicial intimations, which already pay a fee of two shillings and sixpence as such.

And the Lords ordain, that in time coming an entry be made in the Inner-House minute-books of all petitions refused by the Court, whether upon or without answers; and also, that in all cases where intimation of any application is ordered to be made upon the walls, intimation thereof shall likewise be insert in the said minute-books; and the like fees shall be paid by the petitioner's agent to the Principal

pal Clerk's assistant for such entries and intimations as they are allowed by this or any former Act of Sederunt to exact and receive in similar cases. 1806.

And it is hereby further declared, that the last paragraph in the above mentioned Act of Sederunt, 10th March 1798, shall be understood as applying to the assistants both of the Inner and Outer-House Clerks.

Lastly, the Lords ordain this act to be recorded in the Books of Sederunt, and to be printed and published in the usual form, for the information of all concerned.

(Signed) ILAY CAMPBELL, *I. P. D.*

February 21. 1806.

Order with regard to the Presenting of Papers put into the Boxes.

THE Lords having observed to some of the papers given in to the Court, have of late been printed with too small a type; ordain, that in future every paper put into the Lords' Boxes, shall be printed with the type called "English," at least with none smaller, and appoint this order to be inserted in the Books of Sederunt, and intimation thereof to be made on the walls of the Inner and Outer-House in common form.

Edinburgh, 24th June 1806.

Act of Sederunt, for the more regular Collection of Fines and Amends, and for enforcing the Payment and Distribution thereof.

THE Lords of Council and Session having considered the 10th Article of the Act of Sederunt, 11th August 1787, intituled, "Act of Sederunt, for the better regulating the Forms of Proceeding in the Bill-Chamber and in the Outer-House;" and the Act of Sederunt, 26th February 1794, intituled, "Act for the more speedy and effectual levying of Fines and Amends;" and observing that the regulations therein contained have not sufficiently answered the purpose intended by them, do therefore hereby repeal both the said 10th Article in the first-mentioned Act, and the whole of the last-mentioned Act of Sederunt; and in place thereof, enact and ordain as follows:

1mo, That a book shall be kept by the Principal Clerks of Session, which shall lie on the table of the Court during the sittings of the Inner-House; and shall at all other times be in the custody of the Keeper of the Inner-House Rolls; in which book, one or other of the said Principal Clerks shall enter all orders of the Court relative to Fines or Amends, of the date on which such orders are pronounced, with the names of the cause, and of the party or parties, and

1803. agents concerned; from which book, the keeper of the Inner-House rolls shall transcribe all such orders into a book kept by himself; and he shall likewise, in case of conditional amands, which may either be incurred or not according to circumstances, make the necessary inquiries, when the time elapses, whether they have been incurred or not; and shall again enter the same in his book when incurred.

2do, That, in the Outer-House, each Lord Ordinary shall take the trouble of marking in his Roll-book, all orders given by him relative to fines or amands; and access shall be given to the keeper of the Inner-House Rolls, once every week, to see all such entries, and to copy the same into his own book.

3tio, That in the Bill-Chamber, the Lord Ordinary shall regularly enter, or cause to be entered, in a book to be kept by the Clerk, all orders relative to fines or amands in any case depending there, which shall be patent to the said Keeper of the Inner-House Rolls, once a week during the Session, and once a month during the vacation, in order that such entries may be copied into his own book.

4to, That the Keeper of the Inner-House Rolls shall perform the duty of levying and making effectual all such fines and amands, imposed either by the whole Court, or by the different Ordinaries, in the Outer-House and Bill-Chamber, as the principal Collector of the same, with liberty to him to name any two of the Macers of the Court, to assist him in levying the said fines and amands, as well as the fees due to himself.

5to, That no fine or amand so imposed, shall be understood to be remitted or passed from, unless the Court or the Lord Ordinary shall give a formal deliverance to that effect, which shall in like manner be entered as aforesaid.

6to, That no fine or amand shall be exigible until after fourteen days are elapsed, after the date of its entry in the Collector's books respectively; during which time, and not afterwards, it shall be competent for the Court, or the Lord Ordinary, on sufficient cause shewn, to remit or restrict any such fine or amand; the evidence of which shall be, the Lord President's, or the Lord Ordinary's subscription, to a deliverance upon a petition, representation, or note; which deliverance shall be intimated by the party who obtains it, or his Agent, to the Collector, within twenty-four hours after the date of the same, to be entered by him in his book.

7mo, That in case any such fine or amand, when incurred, and not duly remitted, shall not be paid on demand by the Collector, it shall be his duty, and he is hereby required and ordained, under the penalty of 10s. to be incurred by himself, *toties quoties*, in case of failure, to apply to the Court, or the Lord Ordinary, for the usual warrant, directed to the Macers of Court, for recovering the same, and taking the Agent into custody until it is paid; the said Macers being hereby required to put the same in execution at their peril, and to exact along therewith the ordinary fees of a caption.

8vo, That the Macers shall account, once a week during the Session, or once a month during the vacation, to the Collector, for the fines and amands so levied by them; the whole of which, when received by the Collector, shall be regularly entered in his book.

9^{no}, That the said book shall from time to time be laid before the Lord President of the Court, and the two senior Judges attending the Court, that they may have an opportunity of seeing that the different officers have done their duty, and may in the penult week in each Session, report to the Court in what manner the business has been executed, and what money is in the hands of the Collector, who shall then, or in the last week of the Session, make a distribution of the same among the different persons standing on the poors' list, agreeably to the former practice of the Court.

10^{mo}, That the said Collector shall have for his trouble in the premises, and be allowed to retain to his own use, and that of the macers who act under him in the business aforesaid, 10 *per cent.* of the free produce of said fines and amands, (after defraying all necessary charges), of which one-half shall belong to himself, and the other to his assistants.

11^{mo}, That whereas it has sometimes happened, by the inattention of agents or their clerks, that causes are not duly entered in the proper book of enrolment in the Inner-house, kept by the Lord President's clerk, although contained in a roll affixed by him on the walls of the Inner and Outer-house: It is hereby enacted and ordained, That, in future, when any such neglect or delay shall occur, and in case due enrolment shall not have been made within three days thereafter, the keeper of the Inner-house Rolls shall exact from the party or his agent, by whom such enrolment should have been made, not only his own fee, but as much more, by way of fine to the poor; and which shall be accounted for by him along with the other fines.

12^{mo}, That this act shall have no retrospect beyond the present Session; but shall include any outstanding fines or amands which have been imposed in the course of the present Session, so far as the same can now be ascertained, and so far as they shall not be taken off or restricted by any deliverance of prior date to the 8th of July next.

13th, The Lords do further declare, That the acts of sederunt 19th December 1739, 24th July 1741, and 16th January 1798, concerning the return of processes into the clerks' hands, shall, in time coming, be strictly enforced, with this addition, that if the process shall be kept up, as is too often the case, till the day on which the cause is to be moved or advised in Court, the fine specified in the said acts of sederunt shall be doubled; and the clerks are hereby required to inform the Court, at the time of such moving or advising, whether the process has been duly returned or not, and whether any fine has been incurred; or, in case the process shall not have been duly returned, whether any, or what excuse, has been offered; and with power to the Court to mitigate the fine upon cause shewn.

Lastly, That this act shall continue in force for one year, from the date hereof, and no longer, unless the same shall be renewed.—And the Lords appoint the act to be recorded in the books of sederunt, and printed and published in the usual form.

ILAY CAMPBELL, *L. P. D.*

1807.

9th July 1806.

Act of Sederunt respecting the Intimation of Notes to
the Lord President.

THE Lords, considering the frequency of applications made to the Court in the form of notes to the Lord President, without proper intimation to the opposite party, declare, That in future the acts of sederunt already existing, relative to the intimation of incidental petitions, shall be applied in all points to such notes. And appoint this act to be ingrossed in the sederunt book, and affixed on the walls of the Parliament House.

ILAY CAMPBELL, *I. P. D.*

13th February 1807.

Application relative to Minute-Book.

Unto the Right Honourable the Lords of Council and Session,

*The Petition of the Right Honourable Frederick Campbell, commonly
called Lord Frederick Campbell, Lord Clerk-Register ;*

Humbly Sheweth,

THAT the record of the judicial acts of this Court, commonly called the Minute-Book, was originally framed by the officers under the immediate appointment of the Lord Clerk-Register, and was by them transmitted to the General Register-house, to remain with the other judicial records of the Court in the custody of the Lord Clerk-Register. That from about the middle of the 17th century, the regular transmission of this record appears to have been interrupted; and that downwards, to a recent period, it remained in the private custody of the successive keepers of the Minute-Book, liable to all the accidents and injuries that necessarily attend such a mode of custody; but that since the erection of the present buildings, it has been removed to a separate apartment in the Register Office, occupied by the present keeper of the Minute-Book.

That searches in this record, more especially since it has been regularly printed by order of your Lordships, have become comparatively unfrequent, and the emoluments arising from such searches would be found inadequate to the expence of maintaining an officer, with proper attendants, to be at all times kept open to the lieges.

That it would, therefore, be for the evident advantage of the public, by rendering this record at once more secure and more accessible, that the original mode of transmission to the general depository of the other judicial records of this Court, should now be re-established. That the existing volumes of the Minute-Book in the custody of the present
keeper

keeper should be placed in the General Register-house, under the care 1806. of the petitioner and his successors in office, and that the future volumes of this record, together with a printed copy of them, should in like manner be annually transmitted.

That the present keeper of the minute-book, from his sense of the expediency of the measure, and his regard to the public service, will, as the petitioner understands, be ready to acquiesce in the arrangement now proposed; but conceives that the previous sanction of your Lordships may be requisite to his own security, as well as to the future efficacy of that arrangement.

May it therefore please your Lordships to grant warrant, authorizing William Macfarlane, keeper of the minute-book, to deliver to the petitioner or his deputies, to be deposited by them in the General Register-house, the volumes of the original minute-book now in his possession; and to authorize and appoint the said William Macfarlane and his successors in office, on or before the 1st day of February in every year, to transmit to the General Register-house the original minute-book of the preceding year, with a printed copy of the same, to be preserved with the other public records of the kingdom in the custody of the Lord Clerk Register: And may it further please your Lordships, to order that this petition, with the deliverance of your Lordships thereon, may be entered in the books of sederunt,—According to Justice, &c. (Signed) THO. THOMSON.

The petition having been duly intimated, on the 9th of December 1806, by Alexander Burns, apprentice to Mr Archibald Ferrier, writer to the signet, the agent for the petitioner, to Mr William Macfarlane, writer to the signet, keeper of the general minute-book of the Court of Session, was afterwards moved in Court, on the 20th day of the said month of December, when the following minute was given in for Mr Macfarlane:

“ Craigie, for William Macfarlane, stated, that, if the arrangement proposed in the petition for the Lord Clerk Register, relative to the transmission of the minute-book, should appear to be for the public service, he should be ready to comply with the orders of their Lordships: That it was not his wish to impede or delay the execution of the measure, by proposing any stipulation on the subject of his own official emoluments; but he begged leave to submit to the future inquiry and consideration of their Lordships, whether any, and what compensation in that respect, ought in justice to be provided. (Signed) WILL. MACFARLANE.”

And thereupon the following interlocutor was pronounced by the Court:

Edinburgh, 20th December 1806.

The Lords having heard this petition, and advised the same, with a minute for the said William Macfarlane, grant warrant to, authorize, and

1806. and ordain the said William Macfarlane, keeper of the minute-book, to deliver to the petitioner or his deputies, to be deposited by them in the General Register-house, the volumes of the original minute-book now in his possession ; and also grant warrant to, and authorize and ordain, the said William Macfarlane, and his successors in office, on or before the 1st day of February in every year, to transmit to the General Register-house the original minute-book of the preceding year, with a printed copy of the same, to be preserved with the other public records of the kingdom, in the custody of the Lord Clerk Register : Remit to the Lord President, Lords Craig, Robertson, and Newton, as a committee of the Judges, to inquire into the nature and amount of the emoluments of which the said William Macfarlane will be deprived, in consequence of the regulations made by this deliverance, and to report how far, and in what manner, compensation ought to be provided to the said William Macfarlane. But, in the mean time, authorize and ordain the Clerks of Session to give out extracts of the warrant in favour of the petitioner, without awaiting such reports ; and farther direct, that this petition, and whole procedure following thereon, be entered in the books of sederunt.

(Signed) ILAY CAMPBELL, *I. P. D.*

Thereafter the following deliverance was, of this date, pronounced by the Court :

Edinburgh, 13th February 1810.

Act of Sederunt in favour of Keeper of Minute-Book.

On report of the Lord President, the Lords, as a compensation to the keeper of the minute-book, for the emoluments of which he has been deprived, by the transmission of the minute-book into the General Register-house, and for the trouble and expence that the inserting refused petitions in the minute-book occasions ; ordain, That, in time coming, from and after this date, the said keeper shall be entitled to exact a fee of two shillings Sterling for each entry to be made in the minute-book of all petitions refused by the Court, whether with or without answers.

(Signed) ILAY CAMPBELL, *I. P. D.*

1807.

1st December 1807.

Petition of the Lord Clerk-Register, with regard to the Sederunt Books of the Court, Procedure and Report thereon, and Order of the Court for delivering in the Sederunt Books to the Lord-Register for preservation.

Unto the Right Honourable the Lords of Council and Session,

The Petition of the Right Honourable Frederick Campbell, commonly called Lord Frederick Campbell, Lord Clerk Register ;

Humbly Sheweth,

THAT the Books of Sederunt of the Court of Session are not at present deposited in a place of proper security, and are not under the immediate custody of any responsible officer of the Court: That they are exposed to the risk of injury and mutilation, while at the same time they are less easily accessible to inspection than, from their importance as a public record, they ought to be: That some of the earlier volumes are now in a broken and mutilated state, and the binding of the greater part is extremely bad, and in no respect suited to the importance of such a record: That the safe custody and preservation of the books of sederunt fall within the peculiar province and superintending duties of the Lord Clerk-Register, as the chief record officer of the Court of Session. And that, with a view to those important objects, these books, in so far as they are completed, and are not needed for the purpose of frequent reference, ought to be deposited with the other records of the Court in the General Register-house.

May it therefore please your Lordships, to authorize the petitioner and his deputy keepers of the public records, to take possession of the books of sederunt, in so far as the same are completed, in order that they may be deposited in the General Register-house; and, further, to give such orders respecting the current and future volumes of the books of sederunt as may insure their regular transmissions in due time to the General Register-house.—According to Justice, &c.

(Signed) THO. THOMSON.

Edinburgh, 7th July 1807.—The Lords having heard this petition, remit to the Lords Justice-Clerk, Meadowbank, and Woodhouselee, to consider the same, to see a proper inventory of the books in question made up, and to report.

(Signed) ILAY CAMPBELL, *I. P. D.*

And to which petition and interlocutor the following report is subjoined:

Edinburgh,

1807.

*Edinburgh, 25th November 1807.**REPORT, by the Lords Justice-Clerk, Meadowbank, and Woodhouselee, relative to the Books of Sederunt.*

In pursuance of the remit from the Court of the 7th July last, upon the petition of the Lord Clerk-Register, we this day inspected the sederunt books in question, consisting of eighteen volumes, from the 15th January 1553 to the 11th March 1800 inclusive; as also a volume respecting the private pecuniary affairs of the Court, commencing the 23d November 1661⁴ and caused an inventory thereof to be made up, shewing the commencement and ending, as well as the general state of each of these volumes, as it appeared to us upon inspection; which inventory is signed by us as relative hereto: And we are of opinion, that it is proper and expedient that the above volumes be transmitted from the open closet in the inner Parliament-house, where they are presently lying, to the General Register-house, and be there put into the possession of the Lord Clerk-Register, for safe custody and preservation: As also, that each succeeding volume of the sederunt book, when completed, be in like manner deposited with the Lord Clerk-Register, from time to time, so soon as the same may not be needed by the Court, for the purpose of frequent reference.

(Signed)

C. HOPE.

ALLAN MACONCHIE.

ALEX. FRASER TYTLER.

And to which Report there is the following Inventory, viz.

INVENTORY or List of the Books of Sederunt, made up as relative to the preceding Report of Lords Justice-Clerk, Meadowbank, and Woodhouselee, of date 25th November 1807.

<i>Vols.</i>	<i>Commencing.</i>	<i>Ending.</i>	<i>Remarks.</i>
1	Jan. 15. 1553.	Nov. 26. 1555.	{ A little torn at the beginning, and four leaves at the end loose and mutilated.
2	Jan. 27. 1560.	Nov. 13. 1567.	{ Beginning quite gone,—a leaf at the beginning seems to be torn off, and several leaves at the end in a mutilated state,—broken and imperfect.
3	Oct. 20. 1575.	Nov. 7. 1587.	{ One leaf loose at the end, and two others mutilated.
4	Jan. 1. 1587.	May 21. 1608.	{ The binding quite gone, and the volume altogether in a loose state.
5	Mar. 29. 1627.	Feb. 28. 1650.	{ Two leaves loose at the beginning, and mutilated.
6	June 6. 1661.	Nov. 28. 1674.	{ Complete.
7	Dec. 1. 1674.	July 23. 1681.	{ Ten leaves loose at the beginning.
8	Nov. 1. 1681.	Dec. 11. 1688.	{ Complete.
9	Nov. 1. 1689.	Feb. 20. 1703.	{ The binding entirely gone, and eight leaves quite loose at the beginning.
10	Feb. 23. 1703.	Feb. 28. 1719.	{ Two leaves loose at the beginning, and five at the end loose and mutilated.
11	June 2. 1719.	Feb. 29. 1732.	{ Nine loose leaves at the end.
12	June 1. 1732.	Feb. 26. 1743.	{ Complete; contains some sederunts under act 5th Geo. I. respecting claims on forfeited estates.
13	June 1. 1743.	Aug. 11. 1753.	{ Seven leaves at the end loose and mutilated.

<i>Vols.</i>	<i>Commencing.</i>	<i>Ending.</i>	<i>Remarks.</i>	1807.
14	Nov. 13. 1753.	Dec. 22. 1764.	Two leaves loose at the beginning.	<u>1807.</u>
15	Jan. 15. 1765.	Dec. 23. 1775.	Complete.	
16	Jan. 16. 1776.	Aug. 11. 1784.	One leaf at the beginning loose.	
17	Nov. 14. 1784.	July 11. 1793.	Complete.	
18	Nov. 12. 1793.	Mar. 11. 1800.	Complete	

One Volume respecting private pecuniary affairs of the Court, commencing November 23. 1661, and ending in July 1729, eight leaves loose at the beginning.

Edinburgh, 25th November 1807.—This is the inventory referred to in our report of this date. (Signed) C. HOPE, ALLAN MACONCHIE, ALEX. FRASER TYTLER.

Thereafter, upon resuming consideration of the case, the Court pronounced the following interlocutor.

Edinburgh, 1st December 1807.—The Lords, having resumed consideration of the preceding petition of the Lord Clerk-Register, and having also taken into consideration the preceding report and inventory therein referred to, grant warrant to and authorize the Lord Clerk Register, or his depute, to take possession of the several volumes mentioned in said report and inventory, in order that the same may be deposited in the General Register-house, for safe custody and preservation. And further, appoint each succeeding volume of the Sederunt-Book, when completed, to be in like manner deposited with the Lord Clerk-Register, from time to time, so soon as the same may not be needed by the Court for the purpose of frequent reference. And appoint this petition, with the relative report and inventory, to be recorded in the books of sederunt, and an extract thereof to be given out to the Lord Clerk-Register, when the volumes contained in the inventory are delivered over to him.

(Signed) ILAY CAMPBELL, *I. P. D.*

2d December 1807.

In pursuance of the above order of the Lords, the several volumes mentioned in the preceding inventory were this day delivered over to Mr Alexander Robertson, keeper of the records under the Lord Clerk-Register, in order to be deposited in the General Register-house, for safe custody and preservation, conform to his acknowledgment subjoined to the principal interlocutor of the Court.

5th February 1808.

THIS day the Lords declare, That the act of sederunt of the 6th day of February 1806 shall continue in force for one year after this date.

1808.

11th July 1808.

Act of Sederunt concerning the Register of the Great Seal.

THE Lords of Council and Session, considering that, from the course usually followed at present in the expeding of writs which pass the Great Seal, the register of those writs kept by the director of his Majesty's Chancery remains imperfect as a record, in as much as it does not bear the date of completion of the writ by the sealing thereof. That the means hitherto devised for preventing this defect have not been effectual, and that it is of great importance that the record of all such writs should be rendered complete, authentic, and authoritative; do therefore enact and ordain, That from and after the date of this act, no writ which has passed the Great Seal shall be delivered to the writer by whom it has been expedite, until the fact and date of sealing have been duly entered by the director of Chancery, or his deputies and clerks, in the Register of the Great Seal; and to facilitate and secure the faithful observance of this order, the Lords do hereby authorize the keeper of the Great Seal, and his deputies, to demand from the writer by whom the writ is expedite, the full dues and emoluments exigible by law, as soon as such writ, with the warrant thereof, is presented to him for the purpose of appending the Great Seal; and the Lords do require and strictly enjoin the keeper of the Great Seal, or his deputies, as soon thereafter as the Seal has been appended, forthwith to deliver the writ, together with the warrant of the same, to the director of Chancery or his deputies; and the Lords do require and strictly enjoin the director of Chancery, and his deputies, without delay, to make the due entry of the sealing in the Register of the Great Seal kept by him, and thereafter, on demand, to deliver the writ to the writer by whom it has been expedite, free of all further charges, fees or demands, of any sort whatever, retaining in their possession the warrant of the writ, until the same, together with the register in which such writ has been recorded, shall in due time be transmitted to His Majesty's General Register-house, therein to be preserved with the other records of the kingdom. And the Lords do further enact and ordain, That, in expeding charters which pass the Seal of his Royal Highness the Prince of Wales, and of which a register is in like manner kept by the director of Chancery, the same course of proceeding *mutatis mutandis* shall, in all cases, be exactly observed. And the Lords do enact and declare, That the violation or neglect of the present act by the keeper of the Great Seal and his deputies, or by the director of Chancery and his deputies, shall be held as a gross malversation in office, and punishable accordingly. And ordain this act to be recorded in the books of sederunt, and to be printed and published in the usual form, for the information of all concerned.

(Signed) ILAY CAMPBELL, I. P. D.

1808.

Edinburgh, 11th March 1808.

Act of Sederunt for regulating and enforcing the ingiving of complete and correct Record or Clerks' Copies of all Petitions and other Printed Papers which are put into the Lords' Boxes for advising; and with regard to the Clerks receiving and moving Petitions.

THE Lords of Council and Session, considering, that the written copies of papers lodged in processes before the Inner-house, and of which printed copies have been given into this Court, are often incomplete and inaccurate, and altogether unfit to remain as original and authoritative records of this Court; do therefore enact, That of every petition, answers, information, or other paper printed and given into this Court, there shall be made, at least, *one copy or impression*, on paper of the same size and quality as that which is at present in use, or shall be for the time in use, for the books of Council and Session, and the other written records of this Court; and that, from and after the first box-day in the ensuing vacation, the clerks shall receive only such printed copies, having annexed thereto the written signatures of the advocates by whom they were respectively drawn, instead of the written copies now in use: Which printed copies, so lodged with the clerks, shall be held, in all time coming, as original records of this Court, and shall be preserved as such with the other records of the kingdom: And the Lords further prohibit the clerks from receiving or moving petitions against interlocutors of Lords Ordinary, or interlocutors in presence, unless they be printed, and, in all respects, complete, as hereby required and directed; but they hereby enact and declare, That petitions *so printed and completed* shall be received and moved, and shall stop the running of the reclaiming days, provided they be lodged with the clerks, so as to be moved during the sitting of the Court in the forenoon of the *last day allowed by former acts of sederunt for the boxing of such petitions*: And the Lords do hereby further declare, That they will enforce, with the utmost rigour, their act of sederunt made on the 15th day of July 1768, for preventing typographical errors, and imperfect quotations in the printed papers given into this Court: And, *lastly*, ordain this act to be recorded in the books of sederunt, and to be printed and published in the usual form, for the information of all concerned.

(Signed) ILAY CAMPBELL, *I. P. D.*

11th

1808.

11th March 1808.

Petition of the Lord Clerk-Register, and Procedure thereon, with regard to the Transmission of the Register of Tailzies and Inventories to his Majesty's General Register-House.

Unto the Right Honourable the Lords of Council and Session,

The Petition of the Right Honourable Frederick Campbell, commonly called Lord Frederick Campbell, Lord Clerk-Register;

Humbly Sheweth,

THAT, by an act of the first Parliament of King James VII. A. D. 1685, cap. 12. "Concerning Tailzies," it was declared and enacted, that "the original tailzie" should be "once produced before the Lords of Session judicially, who are ordained to interpose their authority thereto, and that a record be made in a particular Register-Book to be kept for that effect, wherein shall be recorded the names of the maker of the tailzie, and of the heirs of tailzie, and the general designations of the lordships and baronies, and the provisions and conditions contained in the tailzie, with the irritant and resolute clauses subjoined thereto, to remain in the said Register *ad perpetuam rei memoriam*, and for which record there shall be paid to the clerk to the Register and his deputies the same dues as is paid for the registrations of sasines."

From the terms and provisions of this act of Parliament, it is obvious, that the register of tailzies is to be regarded as constituting a particular class of the books of Council and Session; that these, like all others of that description, are placed under the care and superintending control of the Lord Clerk-Register, and that they ought to be deposited with the other public records of the kingdom in his Majesty's General Register-house, under the immediate custody of the Lord Clerk-Register. The officer by whom the register of tailzies is framed, has always been one of the principal clerks of this Court, who are *ex officio* deputies of the Lord Clerk-Register. This appointment to that particular department was originally vested by the terms of the statute in the Lord Clerk-Register; but for a considerable time past, the right of nomination and appointment has been retained by the Crown. At no period, however, since the institution of this Register, has it been the practice of the keepers to transmit the successive volumes to the General Register-house, and the whole are now in the possession of Mr James Ferrier, the present keeper. The original cause of this irregularity is to be traced to the very imperfect accommodation for the safe custody of the public records, prior to the erection of the new buildings; in consequence of which, this, as well as several other records that ought by law to have been periodically transmitted to the General Register-house, were suffered to remain in the private custody of the officers by whom they were framed.

Besides

Besides the register of tailzies, there is at present in the possession 1808. of the same officer another public record, in circumstances exactly similar. By an act of the first Parliament of King William, A. D. 1695, cap. 24. "for obviating the frauds of apparent heirs," it is *inter alia* statuted and ordained, "that for hereafter, any appearand heir shall have free liberty and access to enter to his predecessors, *cum beneficio inventarii*, or upon inventory, as use is, in executories and moveables, allowing still to the said appearand heir year and day to deliberate, in which time he may make up the foresaid inventory, which he is to give up upon oath, full and particular as to all lands, houses, annual-rents, or other heritable rights whatsoever, to which the said appearand heir may or pretends to succeed, which inventory, to be subscribed by him before witnesses, duly insert and designed, shall be given in to the clerk of the Sheriff-court of the shire where the defunct's lands and heritage lie; or, in case the defunct had no lands or heritage requiring sasine, to the clerk of the shire where the defunct deceased; to which inventory, the Sheriff, or Sheriff-depute, with the clerk of the Court, shall also subscribe in judgment, and record the same in their registers, and give extracts thereof; for all which the upgiver of the inventory shall pay no more to the Court and clerk thereof, on any account, than the ordinary price of extract in that Court for an extract of the said inventory; and this inventory is to be given in, recorded, and extracted, as said is, within the said year and day to deliberate; and thereafter the foresaid extract thereof shall, within forty days after the expiration of the said year and day, be again presented and registered in the books of Council and Session, in a particular register to be appointed by the Clerk-register for that effect."

Of the "register of inventories" thus established, the two first volumes, ending in December 1721, appear to have been duly transmitted to his Majesty's General Register-House, where they now remain with the public records of the kingdom. Since that period, however, the subsequent transmission of this record has been neglected, and all the later volumes have passed into the private custody of the different clerks of Session, who have successively held the office of keeper of this register.

In the return made by Mr George Home, late keeper of the register of tailzies and inventories, to the order of the select committee of the House of Commons appointed to inquire into the state of the public records of the kingdom, &c. dated March 20, 1800, it is stated, that "the public records in the custody of the register of tailzies and inventories are,—the entire record of the tailzies from its establishment in 1685 down to this day, consisting of *thirty-one folio* volumes, and a thirty-second begun,—the record of inventories from December 1721, down to this day, consisting of *five folio* volumes, and a sixth nearly completed. These volumes begin with No. 3. The *first* and *second* volumes never were in the possession of the present keeper, nor did he know where they were to be found, until within these few days that he learned they were in the general register. They contain the inventories recorded from the institution of the register in 1695, to December 1721, when

1808. "the third volume begins." It is afterwards stated by the same intelligent and most respectable officer, that "it would, in the opinion of the present keeper of the above registers, render them more secure, if the volumes, as they were completed, were from time to time transmitted to the general repository under the care of the Lord Clerk-Register and his deputies. This would no doubt lessen the emoluments of the office, but it would increase the security of the record for reasons too obvious to require to be particularly mentioned. The regular transmission of many of the other principal records is expressly provided for by the statute, which is one cause of their being kept and preserved with so much regularity; and there seems no good reason why the records of tailzies or inventories, or indeed any other record, should be excepted from this general rule, now that there is a building fit to receive and preserve them." The petitioner has the satisfaction of knowing that the opinions here expressed completely coincide with those of the gentleman by whom the office of keeper is now held, and that he is no less anxious to promote the accomplishment of what he regards as a measure of public utility.

The select committee of the House of Commons, to whom the above-mentioned return was made, reported to the House, "that the records of tailzies and inventories should be carried in annually to the general repository, if possible, or within such period as the Court of Session may direct."

And at a board of the Commissioners appointed by his Majesty, on the public records of the kingdom, holden at the house of the Right Honourable the Speaker of the House of Commons, on the 30th July 1807, it was resolved, "that it be recommended to the Lord Clerk-Register to present a petition to the Court of Session respecting the transfer of the records of tailzies and inventories to the General Register-House."

In the view of accomplishing the object thus recommended to his attention from such high authority, and which he considers as a matter of obvious expediency, as well as of legal right, the petitioner makes the present application to your Lordships. As the measure which is proposed may affect, in a certain degree, the emoluments which the present keeper or his deputy have been in use to derive from the custody of the register of tailzies and inventories, it might be proper, that, before making any order of Court on the subject, some preliminary inquiry into the average amount of those emoluments, and into the proper mode of compensation, should take place; and if, as has been usual in similar cases, it shall be the pleasure of your Lordships to appoint a committee of your number to report on the subject of the present petition, the petitioner believes that such preliminary inquiries and arrangements will be accomplished without any difficulty or delay.

May it therefore please your Lordships, to authorize and ordain Mr James Ferrier, keeper of the register of tailzies and of inventories, forthwith to transmit the several volumes of these registers now in his custody, together with the minute-book of the

the same, to his Majesty's General Register-house, therein to be deposited with the public records of the kingdom; and, farther, to enact and ordain, that in all time coming the registers of tailzies and of inventories shall be written on books marked and issued by the petitioner and his successors in the office of clerk-register, or their deputies, in the same manner with those heretofore in use to be marked and issued for other public records immediately transmissible to his Majesty's General Register-house. And may it further please your Lordships to ordain this petition, with the procedure that may follow thereupon, to be inserted in the Books of Sederunt of this Court. According to justice, &c. (Signed) THO. THOMSON. 1808.

Edinburgh, 19th February 1808.—The Lords having heard this petition, remit to the Lords Justice-Clerk, Dunsinnan, Craig, and Polkemmet, as a quorum of their number, to consider the matters therein set forth, to make the necessary inquiries on the subject, and to report.

(Signed) ILAY CAMPBELL, *I. P. D.*

In consequence of which interlocutor a report was afterwards made by the committee on the subject of the petition in the following terms, viz.

Edinburgh, 10th March 1808.

The committee having considered the foregoing petition, and having called for, and received such further information on the subject of it as appeared to be requisite, beg leave to report,

1mo, That the transmission of the register of tailzies and of inventories to his Majesty's General Register-house, as proposed and craved in the petition of the Lord Clerk-Register, appears to the committee to be agreeable to the original institution of those registers, and in itself highly expedient for the security of those important records.

2do, That in consequence of a private arrangement between the present keeper, and the present deputy-keeper of those registers, and the deputy-keepers of records in his Majesty's General Register-house; the former having signified to the committee their acquiescence in the transmission of those registers, as craved in the petition, without any compensation from the public for the consequent diminution of their emoluments; and *3tio*, That therefore the prayer of the petition ought to be immediately granted by the Court. (Signed) C. HOPE, WILL. CRAIG, WM. BAILLIE.

Thereafter, upon resuming consideration of the case, the Court pronounced the following interlocutor, which is annexed to the report.

Edinburgh, 11th March 1808.

The Lords having resumed consideration of the petition of the Lord Clerk-Register, and advised the same, with the above report, grant warrant to and authorize Mr James Ferrier, keeper of the register of tailzies and of inventories, *cum beneficio*, forthwith to transmit

1808. mit (with the exception of the current register, which is to remain in his hands until completed) the several volumes of these registers now in his custody, together with the minute-books of the same and relative warrants, to his Majesty's General Register house, therein to be deposited with the public records of the kingdom; and further, appoint each succeeding volume of the said Register, when completed, with the relative minute-books and warrants of the same, to be in like manner transmitted from time to time to his Majesty's General Register-house, therein to be deposited with the other public records; and further enact and ordain, That, in all time coming, the register of tailzies and of inventories shall be written in books marked and issued by the Lord Clerk-Register and his successors in the office of Clerk-Register, or their deputies, in the same manner with those heretofore in use to be marked and issued for other public records immediately transmissible to his Majesty's General Register-house; and ordain the said petition and procedure following thereon to be insert in the Books of Sederunt of this Court.

(Signed) ILAY CAMPBELL, *I. P. D.*

14th May 1808.

Prorogation of the Act of Sederunt of 11th March 1800.

THIS day the Lords declare, That the act of sederunt of 11th March 1800, shall continue in force till the 24th of June next.

30th June 1808.

Act of Sederunt for enforcing Payment of Fines continued.

THE Lords declare, that the act of sederunt for enforcing the payment of fines, &c. of date 24th June 1806, shall continue in force for another year from this date.

2d July 1808.

Act of Sederunt declaring the last Monday of every Session not to be reckoned a Box-day for reclaiming Petitions.

THE Lords, this day, considering, That by their act of sederunt of the 11th March last, it is enacted and declared, That only printed and completed copies of reclaiming petitions shall be received by the clerks, but that petitions so printed and completed shall stop the running of the reclaiming days, provided they be lodged with the clerks, so as to be moved during the sitting of the Court on the forenoon of the last day allowed by former acts of sederunt for the boxing of such petitions. And considering that a practice has prevailed, without

without the sanction of any express regulation of the Court, of hold-1808. ing the last Monday of every Session as one of the days for the boxing of reclaiming petitions, the continuance of which practice would be incompatible with the provisions of the aforesaid act of sederunt; declare, That the last Monday of every Session shall not be reckoned among the days within which reclaiming petitions must be put into the boxes, and moved, so as to stop the running of the reclaiming days.

9th July 1808.

Motion by the Lord President about fixing the time for the Meeting of the Court.

On the motion of the Lord President, the Court resolve to meet on the 20th of October 1808, agreeable to the act 48th of the King, cap. 141. sect. 14.

THIS day the Lord President represented, that by an act of Parliament recently passed in the 48th year of the reign of his present Majesty, cap. 151. sect. 14. intituled, "An Act concerning the administration of Justice in Scotland, and concerning appeals to the House of Lords;" the Court is authorized to meet after the passing of said act on any days either in time of Session, or during vacation, nine of the said Judges being a quorum; and the Court being assembled by the Lord President, in order that such regulations may be made, and such distribution of causes may take place as shall be necessary and proper for carrying said act into execution; he therefore proposed to their Lordships that the Court should resolve to meet at Edinburgh, within the Inner Parliament-House there, on Thursday the 20th day of October next, at 10 o'clock forenoon, in terms of, and for the purposes specified in the aforesaid act of Parliament.

The Lords, in terms of the above communication from the Lord President, do accordingly resolve and declare, That they will meet at the time and place proposed by his Lordship, to the end and for fulfilling the purposes specified in the statute.

1808.

Edinburgh, 20th October 1808.

Regulations by the Lords of Council and Session, for carrying on the Business, on and after the 12th of November 1808, when the Court is usually to sit in Two Divisions.

THIS day, agreeably to the resolution of the Court on the 9th day of July last, the Lords having met in the Inner Parliament-House, and made choice of the Lord Justice-Clerk to be President, proceeded to lay down such regulations as appeared necessary for carrying on the business when the Court should be separated into two divisions, according to the 14th section of the act of Parliament of the 48th of his present Majesty's reign, cap. 151. intituled, "An Act concerning the administration of Justice in Scotland, and concerning Appeals to the House of Lords."

1mo, As empowered by the 4th section of the said act, the Lords declare, That both Divisions of the Court shall meet on the usual sederunt days, and at the usual hour, unless when altered occasionally by the Lord President of either Division.

2do, Concerning the attendance of Lords Ordinary in the Outer-House, the Court resolve, That the senior Judge (Lord Dunsinnan) shall be exempted from that duty, and that two Lords Ordinary, one from each Division, shall attend every week in the Outer-House, by rotation, according to their seniority. Lord Craig for the First, and Lord Polkemmet for the Second Division, agreeably to this rule, are to officiate as Lords Ordinary on Saturday the 12th day of November next, and also during the ensuing week. And the Court further resolve, That the band rolls shall continue as usual, with this alteration only, that the Lords Ordinary shall not come out upon the third Saturday after their week in the Outer-House, as has for some years past been the rule.

3tio, The Lords Ordinary for the week shall also, during the time of Session, be Ordinaries upon the Bills. The Ordinary of the First Division shall officiate in the Bill-Chamber for the three first days, and the Ordinary of the Second Division for the three last days of the week. But during the time of vacation and the Christmas recess, the business of the Bill-Chamber is to be carried on by one Ordinary for the week, agreeably to the present rule.

4to, The keeper of the Outer-House Rolls shall keep and issue two distinct sets of Rolls, one for each Division of the Court, as causes shall be enrolled with him in terms of the act.

5to, The Lords approve of the distribution of causes in the Inner-House Rolls which has been submitted to their consideration.

6to, The Lords approve of the proposal made by the Clerks of Session, to divide themselves, in the mean time, in the following manner, without prejudice to each of the Principal Clerks acting in either Division, or to the clerks carrying on their official business, dividing their fees,

their fees, and filling up vacancies in their respective offices, in conformity to the present practice, viz. Messrs John Pringle, James Walker, George Home, and Walter Scott, remaining with the First Division; and Messrs James Ferrier, Colin Mackenzie, and Hector M'Donald Buchanan, going to the Second Division; and three of the Depute-clerks, viz. Messrs George Bruce, John Pringle, and William Pringle, remaining in the First Division; and the other three, viz. Messrs George Jeffrey, Robert Menzies, and James Rose, going to the Second Division. And the clerks are hereby authorized to exchange processes, and to proceed accordingly.

7mo, The Lords recommend to the Heads of the Two Divisions, to consider whether any further regulations are necessary to be adopted before the meeting of the Court on the 12th day of November next; and in the meantime adjourn the present meeting till ten of the clock, forenoon, of Friday the 11th day of that month, to be then held at the same place.

And *lastly*, The Lords appoint these regulations to be entered in the books of sederunt, and printed and published in the usual form.

(Signed) C. HOPE, *I. P. D.*

Edinburgh, 11th November 1808.

Additional Regulations by the Lords of Council and Session.

THE Lords, on reconsidering the Regulations of the Twentieth October last, resolve,

1mo, That the Lords Ordinary shall continue to sit in the Outer-House on the *Third Saturday* after their week, as formerly; but that they shall not come out upon the forenoon of the *First Saturday* after their week, as directed by the last clause of the said regulations, which is hereby in so far varied.

2do, That the words "officiate in," contained in the third line of the third article, shall be delete, and the word "attend on" be introduced, when the regulation will run thus:

The Lords Ordinary for the week shall also, during the time of Session, be Ordinaries upon the Bills.—The Ordinary of the First Division shall attend on the Bill-Chamber for the first three days, and the Ordinary of the Second Division for the last three days of the week. But, during the time of vacation and the Christmas recess, the business of the Bill-Chamber is to be carried on by one Ordinary for the week, agreeably to the present rule.

3tio, It being represented, that certain Inner-House causes, to which there are no Ordinaries, and which have already been judged of by the Court, are still in dependence, and in the way of being brought under review, although not at present standing in any roll; the Lords allow these to be still added to the proper Roll, in the order in which the reclaiming petitions shall be boxed, and to be thereafter distributed

1808. distributed betwixt the two Divisions, in terms of the act of Parliament; that is to say, the first of the causes upon the Roll shall belong to the First Division, and the second to the Second Division, and so on successively and alternately.

4to, In place of the regulation anent enrolling petitions and answers, contained in the act of sederunt of the 13th July 1739, the Lords resolve and direct, that every petition which shall in future be ordered to be answered, shall be immediately enrolled in the Inner-House Roll of the Division to which it belongs; and in like manner, when a cause shall be taken to report by an Ordinary, the party who shall first prepare his memorial or information, and shall produce to the Lord Ordinary a certificate from the keeper of the Inner-House Rolls, in the Division before which the cause depends, that a printed copy thereof has been lodged with him, shall, after elapse of the day appointed for giving in these papers, be entitled, at a calling of the cause, to obtain a warrant for enrolling in the Inner-House Rolls, without going through the forms prescribed by the acts of sederunt, 29th June 1738, and 5th June 1739; as also, when in any cause depending before the Inner-House of either division, memorials or informations shall be ordered to be given in, the party who shall first prepare his memorial or information, shall, upon elapse of the day appointed for giving in such paper, be entitled, upon producing a printed copy thereof, to have the cause enrolled in the Inner-House Roll of the proper division; the keeper whereof is hereby directed to enroll the same accordingly. And the Lords declare, That these causes, when so enrolled, will be taken up and advised in the order of the Roll; and the foresaid acts of sederunt of the 29th June 1738, and 5th June 1739, are hereby repealed *in toto*; and also so much of the act of sederunt of 13th July 1739, where the same forms, with regard to *ex parte* enrolments, are, of new, prescribed.

5to, The Lords repeal that part of the act of sederunt, 11th March 1788, which confines the advising of petitions and answers, and other papers reclaiming against, or concerning interlocutors pronounced by the Lords in the Inner-House, to Tuesday; and they declare, That they will adhere to the other variations made on that act of sederunt, by the subsequent act of 11th July 1800.

6to, The Lords appoint printed papers in maritime causes to have the word "*Admiralty*," and printed papers in causes from the Commissary Court, to have the word "*Consistorial*" prefixed to their title; and authorize a box for each of these Courts to be placed in the Lobby for receiving copies of all such printed papers, which the agents are hereby authorized to furnish.

Lastly, The Lords appoint these regulations to be inserted in the books of sederunt, and to be printed and published in the usual manner.

(Signed) C. HOPE, *I. P. D.*

4th February 1809. 1809.

Act relative to Accounts of Expences, and the Office of Auditor, renewed for a Year.

THE Lords declare, That the act of sederunt of the 6th February 1806, relative to accounts of expences, and establishing the office of Auditor, shall continue in force for one year from this date.

22d February 1809.

Act of Sederunt for the Teind Court.

THE Lords of Council and Session, Commissioners for Plantations of Kirks and Valuation of Teinds, taking into consideration, that the interlocutors pronounced by the Court cannot be written out so as to be signed by the Lord President at the same sederunt, and, of consequence, they cannot be signed for want of a quorum of the Lords Commissioners sooner than that day fortnight, being the next Court day, which greatly retards the expedition of the business: They therefore do hereby enact and ordain, That it shall be competent to the Lord President for the time, and he is hereby authorized to sign all such interlocutors so soon as the same are prepared, and that in presence of four Judges, as a quorum in the division of the Court of Session to which the said Lord President belongs. And declare, That interlocutors so subscribed shall be as valid and effectual as if the same had been signed in presence of a quorum of the said Lords Commissioners in Court.

And whereas the act of sederunt of the said Lords Commissioners, of date the 22d February 1794, "declaring, That they will receive "no reclaiming bills against any interlocutor hereafter to be pronounced by the Court, unless the same be given in on or before "the third sederunt day after the interlocutor reclaimed against is "pronounced," is not now applicable to the diets of the Court, as of late established by act of Parliament. Therefore, the Lords Commissioners do hereby declare, That, from and after the first sederunt day in May next, they will not receive any reclaiming petition against any interlocutor to be pronounced by the Court, unless the same be given in to the clerk, and printed copies thereof put into their Lordships' boxes, on or before the Saturday preceding the second sederunt day after the interlocutor reclaimed against is pronounced. And appoint this act to be recorded in the books of the commission, and copies thereof to be affixed on the walls of the Inner and Outer-houses.

(Signed)

RO. BLAIR, *I. P. D.*

K

March.

1809.

March 8, 1809.

Petition of the Society of Solicitors, for Authority to record Charter, and ratify a Bye-Law.

Unto the Right Honourable the Lords of Council and Session,

The Petition of the Society of Solicitors of the Court of Session, Court of Commission of Teinds, and High Court of Justiciary of Scotland;

Humbly Sheweth,

THAT the petitioners were erected into a Society and Incorporation, under the above name and title, by charter under the Seal appointed by the Treaty of Union to be kept and used in Scotland in place of the Great Seal thereof, bearing date the 24th day of January 1797, and sealed the 23d day of February thereafter. A copy of the charter is annexed hereto, which confers upon the petitioners the usual powers and privileges of a corporation or body politic.

The charter grants to the Society, “ plenam potestatem et auctoritatem, ad eorum generales conventus ordinatos, de tempore in tempus congregatos, constituendi, ordinandi et faciendi tales et tot leges privatas, constitutiones, consuetudines et edicta, quae illi vel major pars illorum pro tempore congregatorum, pro meliore administratione et ordine rerum et pecuniarum depositarum dictae Societatis, attentionumque patrimonialium gubernatione, propria et necessaria judicabunt, dictasque leges privatas, constitutiones, consuetudines et edicta, ullasve earum, mutandi aut abrogandi, ut dictae Societati vel majori parti illorum tunc praesentium necessarium esse videbitur; omnes quas leges privatas constitutiones, consuetudines et edicta uti praedicitur facienda, debite observanda et tenenda volumus: Providen. semper, quod eadem legibus regni non adversa vel contraria erunt; talibusque legibus privatis et ordinationibus, ad iudicium Curiae Sessionis recognitionem summam, ad applicationem ullius personae interesse haben., semper subjectis.”

That the petitioners, considering it to be of great importance to the proper conducting of business, and to the respectability of the Society, that those who are admitted into it be properly qualified by a competent previous education, have made a bye-law or regulation, which they hope, if carried into effect, will be useful to the Court, and beneficial to the lieges resorting thereto. The tenor of the act or by-law is proposed to be as follows: “ That, from and after the 5th day of December 1808, no member of this Society shall be at liberty to enter into any indenture of apprenticeship with any person under the age of fourteen, nor for a shorter period of endurance than five years: That the apprentice shall attend the Humanity or Greek classes in the College of Edinburgh, or any other university, either two sessions previously to the commencement of his indenture, or one session previously to the last-mentioned period, and another session during the currency of such indenture: That, previously

“viciously to the admission of any such apprentice as a member of 1809.
 “this Society, he must have attended the Scotch Law Class in the
 “University of Edinburgh, not less than one session.”

The petitioners are humbly hopeful, that the regulations above engrossed will appear to your Lordships to be proper and useful, as tending to secure a competent degree of education and learning to those who shall become members of the society, and, therefore, that they shall obtain your Lordships' approbation and ratification of them. For this purpose, and that the charter may be recorded in the books of sederunt, the present application is humbly made.

May it therefore please your Lordships, to take the premises into your consideration; to appoint and ordain the said charter to be recorded in the books of sederunt of this Court; and to ratify and approve of the bye-law or regulation before engrossed, and to interpose the authority of the Court thereto, by an act of sederunt; or to give such other orders in the premises as to your Lordships shall seem meet.—According to Justice, &c.

AD. GILLIES.

THO. W. BAIRD.

Edinburgh, 9th March 1809.—The Lords having heard this petition, authorize the within-mentioned charter to be recorded, along with the petition, in the books of sederunt. But, before farther answer, remit to the Lords Balmuto, Hermand, and Woodhouselee, as a committee, to take into their consideration the bye-law in question, and to report.

(Signed) RO. BLAIR, J. P. D.

**Carta Donationis qua Societas Solicitorum Curiae
 Sessionis, &c. in Corpus Politicum eregitur.**

1797.

GEORGIUS Dei Gratia, Magnae Britanniae, Franciae et Hiberniae Rex, Fidei Defensor, Omnibus probis hominibus ad quos praesentes literae nostrae pervenerint, SALUTEM: QUANDOQUIDEM nos considerantes quod Jacobus Bremner, Jacobus Sommers, Joannes Young, Andreas Carmichael, Joannes Tawse, Joannes Peat, Robertus Playfair, Jacobus Stewart, Alexander Walker, Alexander Cunningham, Archibaldus Douglas, Gulielmus Murray, Andreas Bisset, Alexander Grant, Franciscus Fraser, Robertus Cameron, Joannes Sommervail, Robertus Renton, Patricius Murray, Gulielmus Young, Gulielmus Howison senior, Jacobus Gentle, Patricius Robertson, Jacobus Finlay, Georgius Watson, David Hutcheson, Nathaniel Grant, Gulielmus Johnston, Jacobus Knox, Gulielmus Ellis, Robertus Gardner, Joannes Dillon, Robertus Henderson, Jacobus Miller, Josephus Norris, Andreas M'Whinnie, et Andreas Sivewright, omnes agentes seu Curiae Sessionis in Scotia solicitatores, debiteque admissi et in terminis actorum de Sederunt dictae Curiae adscripti, ut quantum in illis situm est, fines salubres et proposita dictorum actorum de

1809. de Sederunt promoveant, in mense Januarii, anno millesimo Septingentissimo et octogesimo quarto vel eocirca, seipsos in societatem seu corpus collectivum, sub titulo et denominatione Societatis Solicitatorum Curiae Sessionis aliarumque Curiarum Capitalium in Scotia, junxerunt, univerunt, et constituerunt; quod quoque summam pecuniae collegerunt tanquam principium pecuniae depositae, pro bibliotheca librorum utilium et necessariorum comparanda, proque subsidio sociorum defutorum et viduarum liberorumque sociorum, in rebus egenis morientium: Et QUANDOQUIDEM pro his propositis consequendis, et pro dictae Societatis meliori tutamine atque administratione in pecuniarum depositarum aliarumque rerum cum securitate, promovere et negotia reipublicae, in quantum ad eorum praxeos occupationemque in dictis curiis refert, in modo proprio et regulari perficere possint; petitores humillime supplicaverunt, ut nobis gratiose placeret regiam cartam nostram concedere, petitores cum talibus aliis personis quales socii eorum societatis adscribentur, in corpus corporatum et politicum incorporantem, per nomen titulumque Solicitatorum Curiae Sessionis, Commissionis Decimarum, et Supremae Curiae Justitiae in Scotia, aut per ullum aliud nomen et titulum quod nobis aptissimum videatur, cum duratione perenni et successionem, cum potestate sigillo utendi, actiones movendi, et in jus trahi, possessiones reales et personales emendi et gaudendi, leges privitas pro gubernatione dictae Societatis, cum omnibus aliis potestatibus et privilegiis consuetis, faciendi et decernendi: Nosque satisfacti inceptum petitorum laudabile esse et laude dignum: Igitur, CONSTITUIMUS, EREXIMUS, et INCORPORAVIMUS, sicuti Nos, ex praerogativa regia et speciali gratia, pro Nobis Nostrisque regiis successoribus, per has praesentes, CONSTITUIMUS, ERIGIMUS et INCORPORAVIMUS dictos Jacobum Bremner, Jacobum Sommers, Joannem Young, Andream Carmichael, Joannem Tawse, Joannem Peat, Robertum Playfair, Jacobum Stewart, Alexandrum Walker, Alexandrum Cunningham, Archibaldum Douglas, Gulielmum Murray, Andream Bisset, Alexandrum Grant, Franciscum Fraser, Robertum Cameron, Joannem Somervail, Robertum Renton, Patricium Murray, Gulielmum Young, Gulielmum Howieson seniore, Jacobum Gentle, Patricium Robertson, Jacobum Finlay, Georgium Watson, Davidem Hutcheson, Nathanielem Grant, Gulielmum Johnston, Jacobum Knox, Gulielmum Ellis, Robertum Gardner, Joannem Dillon, Robertum Henderson, Jacobum Miller, Josephum Norris, Andream M'Whinnie, et Andream Sivewright, omnesque et singulas alias personas, tanguam agentes seu solicitatores in terminis dictorum actorum de Sederunt jamjam admissas et adscriptas, qui intra duodecem menses a data praesentium, per applicationem regularem illo illisve faciendam, perque sphaerulas suffragatorias personarum primo mentionatarum, socii dictae Societatis admittentur; ac etiam, omnes et singulas personam seu personas, quae postea tanquam solicitatores dictae curiae admittentur et adscribentur, in terminis et secundum acta de Sederunt per dictam Curiam facta vel facienda, in CORPORATIONEM CORPUSVE POLITICUM, per nomen et titulum SOCIETATIS SOLICITATORUM, IN CURIA SESSIONIS, COMMISSIONIS DECIMARUM, SUPREMAQUE CURIA JUSTITIARIAE SCOTIAE; et quod illi eorumve

successores

successores in omni tempore futuro, durationem perpetuam et successionem habebunt, ut melius magisque efficaciter administrare, dirigere, ordinare et constituere possint, omnia res et negotia ad dictam Societatem spectantia, pecuniasque depositas ad eandem pertinentes; cum potestate ad illos, aut partem majorem illorum, administrandi, dirigendi, ordinandi et constituendi, in omnibus rebus et negotiis, ad dictam Societatem ejusque gubernationem, et administrationem ejus facultatum pecuniarumque depositarum spectant. et pertinent. **ET QUOD** dictae Societati per nomen titulumque antedictum, licitum et legitimum erit, habere, acquirere, recipere, tenere, possidere, frui, et in perpetuitatem aut aliter retinere, terras, tenementa, et hereditamenta cujuscunque generis, qualitatis, aut naturae; **PROVIDEN.** semper, quod totus annuus redditus terrarum, tenementorum, et haereditamentorum sic acquirend. aut quae pro beneficio dictae Societatis jam acquisita fuerunt, non excedent summam quingentarum librarum Sterlinensium; etiamque vendere et impignorare ullas dictarum terrarum, tenementorum, aut aliorum statuum haereditariorum, jam acquisitorum seu emptorum, pro commodo dictae Societatis, vel quae in ullo tempore futuro per dictam Societatem acquiri seu emi possint: et locationes, rentalia, seu assedationes dictarum terrarum, tenementorum, aliorumque statuum haereditariorum dare et concedere, eademque in modo perpetuae locationis, pro competenti feudi divoria in feudum demittere: **AC ETIAM**, quod in nomine tituloque antedicto dictae Societati licitum erit actiones movere, et in jus trahi, reum agi, et respondere, defendere et defendi, in quibuscunque curiis et locis, et coram quibuscunque judicibus, irenarchis, aliisve officiariis, in omnibus actionibus, processibus, causis, accusationibus, rationibus, rebus et postulationibus quibuscunque; cum potestate sigillum commune habendi et utendi, idemque a tempore in tempus mutandi, prout dictae Societate, vel parti majori ejusdem proprium videbitur: **ET NOS** pro Nobismet ipsis haeredibus et successoribus Nostriis, decernimus et ordinamus, Quod tres conventus generales in unoquoque anno, unus in primo die Lunae Martii, alius in primo die Lunae Junii, et tertius in primo die Lunae Decembris, apud aulam Societatis tenendi sunt, ad horam secundam post meridiem, aut apud tales alios locum seu locos, horam horasve, quales dicta Societas a tempore in tempus ordinabit. Et quod ad dictum conventum in primo die Lunae Junii, Societas, ex sociis per has praesentes incorporatis, praesidem, propraesidem, thesaurarium, secretarium, talesque alios officiarios eliget, quales Societas posthac apti et necessarii inveniet; et quae electio praesidis aliorumque officiariorum ad Curiam in terminis praedictorum actorum de Sederunt annuatim producta erit: **NOSQUE ULTERIUS** volumus et declaramus, Quod nulla persona vel personae, sociis dictae Societatis per has praesentes incorporatus exceptis, intitulatae seu qualificatae erunt agere, procurare, sollicitare, aut in quocunque alio modo directe seu indirecte, incipere, promovere, aut defendere, ullas actionem vel actiones, causas seu quaerelas, in nomine et vice ullarum aliarum personae seu personarum, ullasve actionem vel actiones, aut causam vel causas cujuscunque generis seu naturae, coram dicta Curia Sessionis, seu Curia Commissionis Decimarum, aut Suprema Curia Justitiariae

1809. in Scotia, promovere vel administrare : Sed semper cum et sub exceptionibus, et limitationibus in actis de Sederunt contentis, ullisve regulationibus per Curiam antedictam factis vel faciendis : **DECLARAN.** quod nihil in his praesentibus content. a juribus privilegiisque sicuti in praesentia possessis Nostri Signeti Scribarum in Scotia agendi ex officio tanquam agentium seu sollicitatorum in dicti curiis, secundum usum et consuetudinem, nec a privilegiis talium praesentium clericorum principalium advocatorum, quales per regulationes Curiae rem agere intitulati erunt, sicuti agentes seu sollicitatores coram dictis curiis, cum Societate antedicta haud intratis, detrahet, afficiet, seu infringet : **AC ETIAM,** excepta et reservata omnibus et singulis personae vel personis, in praesentia tanquam agentibus seu sollicitatoribus in dicta Curia, in terminis actorum de Sederunt ante datam praesentis cartae admissis et adscriptis, potestate et privilegio promovendi, causasque actitandi, in terminis dictorum actorum de Sederunt, etiamsi socii dictae Incorporationis fieri non voluerint : omnia quae jura privilegiaque per has praesentes excipiuntur et reservantur, quacunque re in hac content. in contrarium nulla tenus obstante. **ET** a Nos, pro Nobis haeredibus et successoribus Nostris, damus et concedimus petitoribus, illisque personis qui nunc componunt, vel postea dictam Societatem component, plenam potestatem et auctoritatem, ad eorum generales conventos ordinatos de tempore in tempus congregatos, constituendi, ordinandi, et faciendi tales et tot leges privatas, constitutiones, consuetudines et edicta, quae illi vel major pars illorum pro tempore congregatorum, pro meliore administratione et ordine rerum et pecuniarum depositarum dictae Societatis, attentionumque patrimonialium gubernatione propria et necessaria judicabunt, dictasque leges privatas, constitutiones, consuetudines et edicta, ullasve earum, mutandi aut abrogandi, ut dictae Societati vel majori parti illorum tunc praesentium necessarium esse videbitur ; omnes quas leges privatas, constitutiones, consuetudines et edicta uti praedicitur facienda debita observanda et tenenda volumus : **PROVIDEN.** semper, quod eadem legibus regni non adversa vel contraria erunt, talibusque legibus privatis et ordinationibus ad Judicium Curiae Sessionis recognitionem summam, ad applicationem ullius personae interesse haben. semper subjectis. **ET ULTERIUS,** Nos, ex gratia Nostra speciali, certa scientia, et proprio motu, **DEDIMUS** et **CONFIRMAVIMUS,** tenoreque praesentium, pro Nobis, haeredibus et successoribus nostris, damus et confirmamus, dictae Societati, omnia bona, summas pecuniae, jura, foenera, proficua, beneficia, securitates, commoda, potestates, privilegia aliaque negotia et res quaecunque, per dictam Societatem, vel per ullos ejusdem socios, pro usu et commodo ejusdem, hactenus habita, recepta, fructa, exercita, intitulata, facta vel acta : **TENENDA** et **HABENDA,** recipienda, percipienda, exequenda et fruenda, omnia et singula dicta praemissa ultimo supra mentionata, per illos eorumque successores, dictamque Societatem in perpetuum, et in modo tam amplo et benefico, ad omnes intentus et proposita, quam dicta Societas, ullusve ejusdem socius, pro usu et beneficio ejusdem antehac eadem tenuerunt, fructi fuerunt, et exercuerunt : **ET NOS,** pro Nobis, haeredibus et successoribus Nostris, declaramus, ut haec praesens carta Nostra in omnibus et

et per omnia, firma, valida, atque in lege efficax existat, secundum verum intentum ac intellectum ejusdem, utque accipiat, interpretetur et intelligatur in sensu maxime favorabili atque benefico, ad summam utilitatem dictae Societatis, ulla mala recitatione, defectu, incertitudine seu imperfectione in his praesentibus non obstante: Et Nos, pro nobismet ipsis, haeredibus et successoribus Nostris, pacti sumus, concedimus et convenimus, cum dicta Societate et Corporatione seu Corpore politico eorumque successoribus, Nos, haeredes Nostros et successores, a tempore in tempus, omnibusque temporibus futuris, ad dicti Corporis corporati vel politici, eorumque successorum humile rogatum et petitionem, illis daturus esse et concessuros omnia talia ulteriora et alia privilegia, auctoritatis, res et negotia ad hanc nostram concessionem, secundum veram intentum et intellectum harum praesentium efficaciorum reddendam, quae Nos seu ille de jure concedere possumus vel poterunt, et quae Corporis corporati vel politici juris peritis pro tempore existen. juste proponentur et excogitabuntur, et quae a Nostrum vel haeredum et successorum Nostrorum Domino Advocato vel Solicitatore Generali in Scotia approbata erunt. **IN CUJUS REI TESTIMONIUM**, sigillum Nostrum per Unionis tractatum custodiend. et in Scotia vice et loco magni sigilli ejusd. utend. ordinat. presentibus appendi mandavimus. **APUD** aulam Nostram apud St James's, vigesimo quarto de mensis Januarii, anno Domini millesimo septingentesimo nonagesimo septimo, regnique Nostri anno trigesimo septimo. 1809.

Per signaturam manu S. D. N. Regis superscript.

Sealed at *Edinburgh*, the twenty-third day of *February*,
One thousand seven hundred and ninety-seven.

CHAS. GORDON, *Dept. L. 80 Scots.*

Written to the Seal, and registered the 20th day of *February* 1797.

THOS. MILLER, *Subt.*

22d June 1809.

Act of Sederunt of 11th March 1800, concerning Proofs,
declared to be perpetual.

THE Lords of Council and Session, considering, That the act of sederunt of the 11th March 1800, "Concerning proofs," was only passed for a limited time, and has since been renewed from year to year, do now enact and declare the same to be made perpetual; and appoint this act to be inserted in the books of sederunt, and intimation thereof to be made in the minute-book of the Court.

1809.

30th June 1809.

Act of Sederunt, for enforcing payment of Fines
continued.

THE Lords declare, That the act of sederunt for the enforcing of payment of fines, &c. of date 24th June 1806, shall continue in force for another year from this date.

Act of Sederunt concerning the Form of Proceeding in
Processes of Augmentation, Modification, and Loca-
lity.

Edinburgh, 5th July 1809.

WHEREAS by an act of Parliament passed in the 48th year of the reign of his present Majesty, intituled, "An act for de-
fining and regulating the powers of the Commission of Teinds in
"Augmenting and Modifying the Stipends of the Clergy of Scot-
"land," The Lords of Council and Session, Commissioners for
Plantation of Kirks and valuation of Teinds, are empowered and re-
quired to establish rules and regulations for abridging the forms
and expence of citation of Heritors and others, and for ascertaining
the facts and circumstances of the case, and to establish regulations
for executing the business committed to them by the act 1707, cap.
9. and by the said act of the 48th year of his present Majesty.

The Lords of Council and Session, Commissioners aforesaid, hav-
ing taken this matter into their consideration, do enact,—*1mo*, That
from and after the 12th day of July 1809, it shall not be necessary
for the pursuer of any process of augmentation, modification, and
locality, to cite the titular or tacksman of the teinds, or heritors,
liferenters, or others, intromitters with the teinds, in the manner or
upon the *induciae* heretofore required; but that, as soon as a sum-
mons of augmentation, modification, and locality, is raised and sig-
neted, it shall be competent to the pursuer to cause cite the titulars
and tacksmen of the teinds, heritors and liferenters, and all others
having, or pretending to have, interest in the teinds of the parish,
by the precentor giving public notice from his desk, immediately be-
fore the congregation is dismissed from the forenoon service, that
the minister of the parish has raised a summons of augmentation of
his stipend, which will be called in Court on Wednesday, being
the day of next to come, not being less
than six weeks after the date of the first notice, and that this no-
tice shall be repeated for three several Sundays at the time above-
mentioned;

mentioned; and a certificate by the precentor, that such public notice has been given upon three several Sundays, in presence of two of the parishioners, who shall subscribe as witnesses, shall be forthwith transmitted by him to the pursuer's agent. A notice in writing, in like terms, shall also be affixed to the most patent door of the church, by a messenger at arms, or a constable, on the same day when the first notice is given from the precentor's desk; and such messenger or constable shall return a certificate, subscribed by himself and two witnesses, that such notice has been affixed by him. The pursuer shall also cause notice be inserted three several days in *the Edinburgh Evening Courant, the Caledonian Mercury, and Edinburgh Advertiser*, that he has raised a summons of augmentation, modification, and locality, which will be called in Court on Wednesday, being the _____ day of _____ not being less than *six weeks* from the date of the first advertisement. *The mode of citation, and the induciæ above mentioned, shall be deemed sufficient, although one or more of the defenders shall be a pupil or minor out of the kingdom, at the time such citation shall be given.* When it is necessary to call the Officers of State for his Majesty's interest, it shall be done in the manner that has hitherto been in use, *upon the induciæ of six weeks.* And it is farther enacted, That it shall be a sufficient citation to the moderator and clerk of the presbytery, that the pursuer himself shall write to the said moderator and clerk, in terms of the 17th section of the statute; provided always, that such letters shall be inserted in the presbytery record *one month* before the summons is called in Court; and such certificate by the precentor of the parish, and messenger or constable, with the notices in the newspapers above-mentioned, execution of citation to the Officers of State, and certificate from the presbytery-clerk, that the pursuer has written to the moderator and clerk of presbytery in terms of the statute, and that the letters are recorded in the presbytery-books, shall be held as sufficient citation to all parties. When any of the defenders die during the dependence of the process, his heir may be called by a diligence in the manner and upon the *induciæ* hitherto used; but such diligence may be executed either by a messenger at arms or a constable; and when it is necessary to waken a process, it must be done by a summons of wakening, in which all parties having interest must be called in the same manner, and on the same *induciæ*, as in the original process.

2do, The pursuer of every process of augmentation shall, as soon as the summons is signeted, lodge with the clerk of Court a note, stating the amount of the stipend, distinguishing how much is paid in money, and how much in victual, and in what species of victual, and the measure by which it is paid; and also stating the amount of the communion elements. The pursuer must also, at the same time, produce a rental of the parish, distinguishing the rent of each heritor.

3do, As soon as the summons is called in Court, the pursuer may enrol it; and all concerned will be allowed to see the summons and writings therewith produced, in the clerk's hands for *fourteen days*:

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1809. After the elapse of the time allowed for seeing, the pursuer may enrol the cause, when a proof will be allowed of the rental of minors' lands; and the heritors, who are major, will be held as confest upon the rental, unless one or more of them shall take a day to depone, in which case a day shall be assigned to the whole heritors who are major to depone on the rental; and one act and commission shall be extracted for the whole, upon which any of the heritors or their factors may depone, and upon which a proof of the rent of minors' lands may be led; such act and commission to be extracted at the expence of the heritors deponing: *But the rental of minors' lands may be proved by a certificate thereof under the hand of any one of the tutors or curators of such minor, or of their factor, without the necessity of extracting any act and commission.*

4to, When the day assigned for deponing and proving shall have elapsed, the pursuer may again enrol the cause, and pray that the term may be circumduced; and that a remit shall be made to an Ordinary to prepare a scheme of the rental, either according to the rental which the minister gave out amongst with his summons, if there has been no proof, or according to the proof which has been led, and the certificates of rentals and decrees of valuation produced.

5to, When the scheme of the proven rental is prepared, the cause may be enrolled, in order that parties may be heard upon the merits. When the Court grants an augmentation, the cause will be remitted to an Ordinary to prepare a locality and to report. The pursuer of the augmentation may, immediately after such remit, enrol the cause before the Lord Ordinary, and crave his Lordship to ordain the heritors to produce their rights to their teinds, if they any have, in the hands of the clerk, within a time to be specified in the interlocutor, not being less than *three months* from the date thereof; with certification, that, after the elapse of that time, a remit shall be made *to the clerk* to prepare a scheme of locality, either according to the proven rental, in case no rights are produced, or according to the rights and interests which are produced by the heritors; and that this scheme so prepared shall immediately be approved by the Lord Ordinary, *and afterwards by the Court*, as an interim scheme, according to which the minister's stipend shall be paid, ay and until a final locality shall be settled, and the minister furnished by the common agent with an extracted decree at the expence of the heritors, for which he is entitled to take credit in his account. The Lord Ordinary shall, at the same time, ordain the heritors, or their agents, to meet for the purpose of naming a person to be suggested to the Lord Ordinary as common agent for conducting the locality. A short notice of this interlocutor shall be inserted in the Edinburgh Evening Courant, Caledonian Mercury, and Advertiser, the expence thereof to be paid by the common agent out of the general fund.

6to, And in order to enable the Court to carry the said act into execution, the Sheriff and Stewart-clerk of every Sheriffdom and Stewartry, is hereby required, within *three months from the date hereof*, to transmit to the Teind-clerk a certificate of the fiars for the last seven years, distinguishing the fiars of each year; and every Sheriff and Stewart-clerk is farther required to transmit to the Teind-clerk a
certificate

certificate of the fiars of every year in all time coming, within four-teen days after they shall have been struck, as they shall be answerable.

(Signed) RO. BLAIR, *I. P. D.*

14th November 1809.

His Majesty's Warrant appointing a Place of Sitting for the Second Division of the Judges or Lords of Session.

GEORGE the Third, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, &c. To all to whom these presents shall come, Greeting: Whereas by our warrant under our Royal Sign Manual, bearing date the 22d day of August, in the 48th year of our reign, pursuant to the powers vested in us by an act passed in the same year of our reign, in which it is enacted, "That the Judges or Lords of Session should sit in Two Divisions, and in such rooms or places as we, our heirs, or successors, should appoint;" we did appoint that the 2d Division of our Judges, or Lords of Session, should sit, until we should otherwise appoint, in the apartment in the Parliament-House, then unoccupied; and immediately over the lobby thereof: And whereas it has been humbly represented unto us, that a commodious room has been constructed; and may be ready for the reception of the Second Division of our said Court, which is to meet on the 12th day of November inst.; we do therefore hereby appoint, that they shall sit in the said new room constructed for that purpose in the new building lately erected, adjoining to and immediately to the west of the old Parliament-Hall, commonly called the "Outer-House." Given at our Court at St James's, the 6th day of November 1809, in the 50th year of our reign, by his Majesty's command.


(Signed) R. RYDER.

Accordingly, after the above warrant had been read over, the Judges of the Second Division proceeded, with the usual formalities, to the new room or apartment thereby appointed for them.

7th December 1809.

THE Lords having observed, That it was stated in a petition by John Graham, one of the ordinary macers, that he holds his office under a commission by Mr Moncrieff of Reddie, proceeding upon the narrative of a right he was stated to have, of nominating one of the macers in this Court, and that he had been in the use of receiving from the petitioner a large proportion of the salary of the office:

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1810. The Lords, considering this a matter of importance, remit to Lord  Hermand and Lord Robertson to inquire into it, and report.

7th February 1810.

In pursuance of the remit from the Court of the 7th of December last, the following report was made by Lords Hermand and Robertson, viz.

REPORT of the Committee on the Office of Macer, claimed by Mr Moncrieff of Reddie.

The Committee, in consequence of the above remit, requested Mr James Thomson, writer to the Signet, to state the titles under which his client claimed the right of nominating one of the ordinary macers of the Court.

Mr Thomson most readily complied with the request, and gave in a report, stating his title to be a grant, in 1483, by James III. to John Scrymgeour, and his *heirs male*, (it does not seem to have been to his *assignees*), "*Officii Clavigerii et Serjeandi armorum*," with the lands of Myres, which was renewed in 1530, and came by progress through Leslie of Myres to Moncrieff of Reddie, in 1563: That this grant was confirmed 1690, with power "to name and present one of the ordinary macers before the Court of Session, who is to have right to the usual fees, salaries, and casualties of the office."

This grant is said to have been taken into the investiture of the family; and it is said, that it has been usual to receive from the presentee a sum by the lump, or an annuity, while the present nominee, Mr Graham, became bound to pay L. 45 Sterling yearly.

The Committee report, that they do not think farther investigation necessary, for the Court will consider, whether Mr Moncrieff may not have an effectual right of presentation, while, by the grant 1690, the presentee has right "to the usual fees, salaries, and casualties of the office."

What effect should be given to the alleged usage, but which may perhaps seem to be an illegal and unwarranted usage, the Court will determine. If it shall have the effect of establishing a right, it may be considered, whether that right should not be redeemed at a sum equal to its value. But if there is no right in Mr Moncrieff to withdraw any part of the salary, there is nothing to redeem. (Signed) GEO. FERGUSSON, WM. ROBERTSON.

The Lords having heard the above report read, approve thereof, but agree to delay the consideration of the same for the present.

Edinburgh,

1810.

Edinburgh, February 7. 1810.

Act of Sederunt anent the Form of Process in the Inner and Outer House.

THE Lords of Council and Session being of opinion that the present form of process, in a few particulars, may be considerably improved by some regulations which experience has shewed to be necessary; and having, in particular, considered that decreets are often allowed to pass in absence, for the purpose of delay, and that such purpose is encouraged by the facility with which decreets in absence may be at present opened up, whereby not only delay, but sometimes serious inconvenience and injustice, may ensue to the other party: Do hereby ENACT and DECLARE, That from and after the twelfth day of May next, when a decret in absence has been pronounced, and the reclaiming days have elapsed, and no representation containing full defences has been put in, the cause shall be intolled in a separate Roll, to be intituled, "Roll of Decrets in Absence;" and if, when again called before the Lord Ordinary, who pronounced the decret, no appearance be made for the defender, warrant for extract shall be granted, which shall specify the sum to which the expences, (if any are concluded for in the summons), shall be modified by the Ordinary, on report of the Auditor, or otherwise.

If appearance be then made for the defender, and either defences are put in, or leave to put them in be craved, he shall not be reponed against the decret in absence, except on payment of the modified expences, and finding caution, *judicatum solvi*, or for such other sum, and within such time as the Lord Ordinary shall appoint.

Or if a defender, who has once appeared and put in defences, or obtained leave to put them in, shall afterwards fail to appear, and shall suffer an interlocutor in absence to become final, in which the expences have been modified, and warrant for extract granted, in manner above-mentioned, he shall, in like manner, not be reponed against said interlocutor, except on payment of the expences, and finding caution *judicatum solvi*. Or, if the pursuer shall allow decret absolutor to become final against him, with a modification of expences, after a second calling, as above, he shall not be reponed against the same, except on payment of the modified expences, and finding caution for the future expences, as the same may be afterwards awarded.

The above rules shall be invariably observed in all cases where the party decerned against was domiciled at the time of citation in Scotland; but against parties out of Scotland, decreets in absence may be opened upon payment of the modified expences only.

The Lords having further taken into consideration, that amendments of libels are sometimes given in and received at a very late stage of the cause, whereby encouragement is given to rash and ill-advised actions, and to slovenliness in drawing the libels in all actions, Do hereby ENACT and DECLARE, That from and after the twelfth day

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1810. of May next, an amendment of a libel shall never be received after a proof has been allowed, or in cases where no proof is allowed, unless produced with, or before, the second representation against the Lord Ordinary's first interlocutor on the merits of the cause.

The Lords also have taken into consideration the delay occasioned by the number of representations given in to the Ordinaries against the same interlocutor, and that such representations do often contain no argument or statement of the cause at all, but are given in merely for the purpose of delay, or of procuring more time to prepare a petition to the Inner-House; and considering that the time at present allowed for reclaiming against interlocutors either to the Ordinaries, or the Inner-House, is, in many cases, too short, and that mistakes often occur from the present mode of counting the reclaiming days by sederunt, and not by natural days, Do hereby enact and declare, That from and after the twelfth day of May next, the time to be allowed for representing or reclaiming both against Outer-House and Inner-House interlocutors, shall be twenty natural days, exclusive of the day on which the interlocutor shall have been signed.

And they further enact and declare, That only two representations shall be competent against an interlocutor of an Ordinary, without prejudice to the Lord Ordinary prohibiting a second representation upon advising the first.

The Lords further enact and declare, That from and after the 11th day of July next, the reclaiming days, both against Inner-House and Outer-House interlocutors, shall run in the vacation, so, however, that they shall not be held to expire till the first box-day of the ensuing vacation, when they shall become final, unless a representation or petition be given in on or before the said box-day.

And, for marking the said representations and petitions, the Lords do hereby enact and declare, That the principal Clerks of Session, and their deputies or assistants, shall attend in their proper places in the Inner and Outer-house, on the said Box-day, from ten o'clock forenoon to two afternoon.

And whereas it is highly expedient that the real nature of the action, and the facts and pleas in law set forth by both parties, should be contained in certain known and fixed papers, forming an abridged record of the cause, so that the Ordinary, the Inner-House, and (in the event of an appeal) the House of Lords may be able to see clearly, and within a short compass, the real nature of the action, the Lords do hereby enact and declare, That they will rigidly enforce the existing regulations as to the returning of defences; and they do order and enact, That the said defences shall not contain argument, but only a concise statement of the facts on which the defender founds, and a summary of the pleas in law which he is to maintain, as applicable to those facts.

The Lords further enact and declare, That from and after the 12th day of May next, every summons, advocacy and suspension, (except those of multiple-poining, adjudication, constitution, wakening, transference, and cessio bonorum), shall be printed, and a copy thereof put into the Lord Ordinary's box on, or before, the Saturday before it is to be called before him.

In like manner, it is hereby enacted and declared, That the defences shall be printed and boxed:—and a copy of the summons, advocacy, and suspension, and amendment, if any, together with a copy of the defences, shall be annexed as an appendix to the first petition, or to the pursuer's memorial or information to the Inner-house. 1810.

The Lords further considering how necessary it is that the averments of the parties should be fully and distinctly brought before the Lord Ordinary and the Court, and the parties compelled to bring out their averments in due time, do hereby enact and declare, in addition to the regulations contained in the late Act of Sederunt anent condescendences, (dated 11th March 1800), That where a fact is averred by one party, and not explicitly denied by the other party, he shall be held as confessed, in terms of the Act of Sederunt one thousand seven hundred and fifteen, section 6th, and the fact as definitely proved against him.

The Lords further hereby enact and declare, That if the answers to the condescendence, besides explicitly admitting or denying the facts stated in the condescendence, shall contain counter averments, the Lord Ordinary shall ordain the parties to revise both, so that the parties may explicitly meet each other on the facts mutually set forth.

And the Lords further hereby enact and declare, That the condescendence and answers (so revised if necessary) shall absolutely foreclose both parties, as to every averment, in point of fact, except on proof of *noviter veniens ad notitiam*, or unless such fact be formally set forth in a supplementary condescendence, to be received only with the special leave of the Lord Ordinary or the Court, as the case may be, and under such order, as to expences, as the Lord Ordinary or the Court may judge proper.

And the Lords further enact and declare, That from and after the 12th day of May next, a copy of the condescendence and answers shall also be annexed as an appendix to the first petition, or to the pursuer's memorial, or information to the Inner-house.

And, *lastly*, The Lords declare, That this act shall continue in force for the space of three years from this date; and ordain the same to be recorded in the books of sederunt, and printed and published in the usual form.

RO. BLAIR, *I. P. D.*

7th February 1810.

The Act of Sederunt of 6th February 1806, renewed till the 12th of July 1810.

THE Lords this day renewed and prorogated the act of sederunt of the 6th of February 1806, relative to accounts of expences, and establishing the office of an Auditor, until the 12th day of July next.

27th

1810.



27th February 1810.

Report of the Lords of Council and Session in Scotland,

Most humbly offered in answer to an order of the Right Honourable the Lords Spiritual and Temporal in Parliament assembled.

THE following order having been received by the Judges in Scotland at the close of the Summer Session, in July 1808, was recorded in their books.

“ Die Martis 28 Junii, 1808.

“ Ordered by the Lords Spiritual and Temporal in Parliament assembled, That the Lords of Session do prepare and transmit to this House copies of all acts of sederunt now in force, distinguishing those which, strictly speaking, are rules of Court, and prescribe forms of proceeding, from those that explain or in any way affect the law of the land.”

As it became necessary to adjourn the farther consideration of this order till a subsequent meeting of the court after the autumn vacation, the then Lord President, at the desire of the other Judges, undertook the business of preparing materials for making the report; but his Lordship soon after retired from the office; and the attention of the Judges having since been occupied by the important alterations made on the constitution of the Court, and the arrangements which were thereby made necessary, besides the labour of bringing up the ordinary business of the Court, which had fallen greatly in arrear, it was not in their power till very lately to resume consideration of the order from the House of Lords. And they now humbly make their report in obedience thereto as follows :

The acts of sederunt of the Court of Session, under which name is comprehended every act, regulation, or proceeding, which the Court has appointed to be recorded in the books of Sederunt, have been gradually accumulating for the space of near three centuries, since the first institution of the Court in 1532, and are now very numerous. In 1790 a compilation of the whole was made out from the original record by Mr William Tait, a member of the Faculty of Advocates, under the authority of the Court, and published in one volume in folio, containing 644 pages. This printed volume, we believe to contain an accurate and authentic copy of the whole acts of sederunt so far as it goes, and as such it is quoted and referred to in the daily practice of the Court. The only defects of it, so far as we know, are what arose from the imperfect state of the record at the time of publication. The books of sederunt for the first twenty years after the institution of the Court had long ago disappeared, and were supposed to be lost. But we understand that this part of the record has been lately discovered in the General Register-House; and that steps have been taken, by order of the Lord Clerk-Register, for making out a correct copy thereof, which, from the bad condition of the manuscript,

is stated to be a work of considerable difficulty. Another volume of 1810. the record was and still is wanting, containing the acts of sederunt from 19th June 1605 to 2d November 1626. During this period, we know that several acts of sederunt were made, particularly one of great importance with regard to *dyccours and bankrupts*, which was afterwards confirmed by the Parliament of Scotland "as a necessary and profitable law;" and which accordingly appears *verbatim* in our statute-book. There are also copies extant of other acts of sederunt at this time, which, however, in our opinion, cannot be relied upon as absolutely accurate and authentic.

By the above order, which it is our inclination, as well as our duty, to comply with in the fullest manner, so far as lies within our power, we are required "to prepare and transmit to the House of Lords copies of all acts of sederunt now in force." The import of which we conceive to be, that we shall prepare and transmit copies of the whole acts of sederunt which have been made since the institution of the Court, excepting only those particular acts which have ceased to be in force, by being repealed or otherwise. The first and most essential part, therefore, of the duty laid upon us, is to examine attentively the whole acts of sederunt from first to last, and to ascertain with precision what particular acts, or parts thereof, have been repealed, altered, or abrogated by disuse. And, with regard to this part of the business, we beg leave to represent, *1mo*, That, when successive acts of sederunt have been made by the Court with respect to the same or similar subjects, (which has happened very frequently,) it has not been the practice of the Court to insert in the new act any express repeal of the former acts which were thereby meant to be altered in whole or in part; so that, in order to distinguish accurately betwixt the acts of sederunt which are now in force, and those which have ceased to be in force in whole or in part, it would be necessary to examine every one act of sederunt, and to compare it with all the prior acts, in order to determine how far the regulations of the one are, in whole or in part, inconsistent with all the prior ones relative to the same subject. And what adds to the difficulty of such an examination is, that the acts of sederunt frequently contain regulations and orders with respect to matters which have very little connection with one another; so that even the examining and comparing all the acts relative to one matter would not answer the purpose. In order to attain to perfect accuracy, it would be necessary to examine every one act through all its different regulations, numerous as they are, to compare it with all the other acts, and to consider its operation upon such as are prior in date, and how far the one is inconsistent with the other, so as to have the effect of a virtual repeal or alteration thereof. And this, we are satisfied, would be a work of much more time and labour than it is possible for the Judges of this Court to accomplish, consistently with the execution of their important duty as Judges.

2dly, We must further observe, that, by the law of Scotland, even acts of Parliament before the Union were held to lose their force by *disuse*, without any express repeal, or to go into desuetude, as it was termed; and the same is still understood to be the case with regard to the acts of sederunt: so that, besides an examination of the whole acts

1810. acts of sederunt, in the books of sederunt, in order to fulfil the order of the House of Lords, it would be necessary to enter upon an extensive investigation, with respect to the practice for many years past, through all the different departments of business belonging to the Court, in order to ascertain what acts of sederunt, or parts thereof, were in desuetude, and in that way had ceased to be regulations in force. We know, that, in deciding causes which turn upon the construction of our statute law, it is sometimes a matter of considerable difficulty to determine whether a particular act of the Parliament of Scotland has or has not gone into desuetude. But, were we required to make a general report upon the statute-book of Scotland, and to distinguish every one law which is in desuetude from those which are not, we should find ourselves nearly as much at a loss how to make our report as in the present case.

The order further requires us to distinguish those acts of sederunt "which, strictly speaking, are rules of Court, and prescribe forms of proceeding, from those that explain, or in any way affect, the law of the land."

The acts of sederunt which come under this last description appear to be of two different kinds; *1mo*, Acts which either have altered or made additions to the law of Scotland existing at the time, which was the proper province of the legislature; and, *2do*, those which were explanatory of what the Judges considered to be the law, and which were appointed to be recorded in the books of sederunt, by way of notification to the lieges.

With regard to acts of this first class, we observe, that a practice at one time prevailed, that when any act affecting the general law was made by the Court of Session, such act was afterwards taken under consideration of the legislature, and, if approved of, was ratified by an act of Parliament. Thus we find, in our statute-book, the following acts of the Scots Parliament, proceeding upon and confirming acts of sederunt which had previously passed through the Court of Session:—Act 1559, cap. 75, intituled, "For punishment of persons that contemptently remains rebels, and at the King's horn."—Act 1594, cap. 138, intituled, an act "Anent slaughter and trouble made by parties in pursuit of their actions."—And act 1621, cap. 18, a ratification of the act of the Lords of Council and Session, made in July (1618), against unlawful dispositions and alienations made by dyvours and bankrupts. But the acts of sederunt which are referred to in the above acts of Parliament, and which are thereby confirmed, from the imperfect state of our records, are not to be found in any of the books of sederunt which are in the hands of the proper officer of Court.

But there are other acts belonging to the above class, and which, in our opinion, required the authority of the legislature in order to give them force, which, so far as we know, never were confirmed by Parliament. Of this nature is an act of sederunt, bearing date 28th February 1662, intituled, "Act anent executors-creditors," which certainly made a considerable alteration upon the common law of Scotland, by introducing a more fair and equal mode of attaching the moveable or personal estate of a person deceased, which formerly stood upon a very imperfect footing, and was much complained of; and, accordingly,

accordingly, although this act never was ratified by Parliament, it 1810. has been universally followed out in practice by every court of law in this country, and has long been considered as a part of the established law of Scotland.

To this class also belong two acts of sederunt, by which the Court of Session attempted in vain to remedy the imperfection of the common law of Scotland with respect to bankruptcy, the rules of which were so imperfect as to put it in the power of a creditor who lived in the neighbourhood, or who was anywise connected with the bankrupt, to secure to himself a preference upon the funds by using the form of legal diligence, to the exclusion of all the other creditors who had not the same advantage. One of these acts bears date 29th July 1735, intituled, "Act for the security of creditors and better management of the estates of bankrupts and others;" and the other is dated 10th August 1754, "Act of Sederunt anent poindings and arrestments." Both these acts were temporary, being declared only to endure for three years, and they never were renewed, which we presume must have arisen from a conviction in the minds of the Judges, who then sat in the Court, that these acts were beyond their powers, and related to matters which properly belonged to the legislature. And accordingly, at a subsequent period, the evils which the Court had attempted to remedy, drew the attention of the legislature, and were remedied by the act 12 Geo. III. cap. 72, intituled "An act for rendering the payment of the creditors of insolvent debtors more equal and expeditious, &c. in that part of Great Britain called Scotland," and by successive statutes afterwards enacted, which now compose the system of bankrupt law in Scotland.

The other class which we have mentioned above, is that of acts of sederunt, which although they touch upon general matters of law, may be considered merely as expressing the opinion of the Court with respect to some article or branch of the law existing at the time. And of this kind, the one which seems to merit most attention, is an act of sederunt bearing date 14th December 1756, intituled "Act of sederunt anent removing." Besides some regulations concerning the form of procedure in actions of removing, this act contains also some matters respecting the general law concerning leases and removings. But whether these are not warranted by the principles of law previously acknowledged, and by a series of precedents and decisions of the Court, appears to us at least a very questionable point; and that being the case, we do not consider it to be requisite or proper to make a more particular report upon this subject, as this could not be done without our forming and delivering an opinion upon some very general and difficult questions of the law of Scotland, which we presume it was not meant that we should attempt to do without having any particular case before us, and without the advantage of having the case discussed, and the precedents and authorities upon the subject brought under our review, by the pleadings of counsel, as in ordinary causes. But we know that the law, as laid down or explained by this act, has been found by experience to be of considerable service to the country.

The acts of sederunt, which have been made since this last mentioned

1810. tioned act in 1756, appear to us to contain only such regulations as were within the power conferred upon the Court by its original constitution, or were authorized by statute.

We cannot conclude this report, without expressing how much we are sensible of its imperfection, and that it has not fulfilled the precise terms of the order received by us, so completely as it was our earnest inclination to do. But we have endeavoured to assign the reasons of that imperfection; and we trust that these will be considered with indulgence by the most Honourable House, and received as a reasonable apology upon our part.

Act of Sederunt, Regulating the Fees to the Keepers of the Inner-house Rolls.

Edinburgh, 7th March 1810.

THE Lords of Council and Session having taken into their consideration, that, by the late act of Parliament dividing the Court, there are now necessarily two Keepers of Inner-house Rolls, viz. one for each Division, and that the trouble and attendance of each Keeper is the same now as it was when the office was held by one person; and likewise, that owing to alterations made within these some years past upon the forms of procedure, the fees payable by the present table do not afford a sufficient allowance to those officers of Court. They do therefore hereby repeal the Acts of Sederunt of date 11th March 1791, and 16th January 1798, in so far as they regulate the fees payable to the Keepers of the Inner-house Rolls, excepting as to any arrears of fees which may be due and exigible by the said Keepers, and incurred prior to the commencement of this act; and they **APPOINT** and **ORDAIN**, that, from and after the 12th day of May next, the fees and emoluments payable to each of the said Keepers of the Inner-house Rolls, shall be as specified in the following table; and **PROHIBIT** and **DISCHARGE** them, and each of them, to demand or receive any fees or gratuities other than those contained in the said table, upon any pretence whatsoever.

Short
Roll.

1st, That for every petition, information, memorial, condescendence, objection, answer, reply, duply, or any other paper, in a cause appointed by the Lords, or by the Lord Ordinary, to be reported to the whole Court, there shall be paid the sum of seven shillings each paper at enrolling.

Ordinary
action
and Sum-
mar Roll.

2d, That, for every action of proving the tenor, sale, account of expence, report from a Lord Ordinary upon a remitted petition for money, getting up bond of caution, or any other cause, in the Summar Roll, (except processes of *cessio bonorum*,) there shall be paid by the parties seven shillings for each enrolment; and, where the cases in this Roll shall be determined upon printed papers ordered by the Lords, or by the Lord Ordinary, upon report to the whole Court, a fee of seven shillings each paper shall be paid at enrolling, as in the immediately preceding article.

Conclud-
ed cause
Roll.

3d, That for enrolling every prepared state or memorial and abstract in a sale, there shall be paid by each party the sum of ten shillings.

4th,

4th, That for a hearing in presence, there shall be paid by each party (including as one of the days the day of advising the cause) fifteen shillings for each day's pleading.

5th, That for every petition, note, or other paper in the Single Bill Roll, there shall be paid for enrolling a fee of two shillings and sixpence each paper; and there shall also be paid the farther fee of two shillings and sixpence for every refused and remitted petition.

6th, That for appendixes to printed papers in the Inner-House, there shall be paid one shilling for each.

7th, That there shall be paid at the admission of every notary-public a fee of ten shillings.

8th, That in no case shall there be more than one enrolment before an interlocutor is pronounced, except where causes are put out in the Roll for reconsideration, when the votes are equal; in which cases, there shall be paid for one enrolment more half the fees of the first enrolment; and also, excepting where papers are of a very unusual length, and where, in consequence thereof, the cause shall be the only one in the Short Roll for the day; then, and in that case, there shall be paid by each party for enrolling the cause twenty shillings. And the Lords ORDAIN the above-mentioned fees for all papers in the Single Bill Roll to be paid to each of the Keepers, before the same shall be moved to the Court, with certification; and, till these fees are paid, the papers shall not be held as enrolled. Which fees above-mentioned the Lords ORDAIN to be communicated by the two Keepers of the Inner-House Rolls, one to another, so as each of them shall receive annually an equal share of their amount.

And, in respect the Keeper of the Inner-House Rolls for the First Division, as being Clerk to the Lord President, has necessarily the sole charge of all printed papers in the Teind Court, and of keeping the Rolls thereof, the Lords DECLARE, that he shall receive the fees arising therefrom for his own behoof exclusively, and without communication. And it is further DECLARED, that the fees of printed papers in the Teind Court shall be the same with those upon printed papers of the same description given in to the Court of Session; that the fees of hearings in presence shall also be the same, and that both shall be regulated in every respect by the above table.

And appoint this act to be recorded in the books of Sederunt, and printed and published in the usual manner, for the information of all concerned.

RO. BLAIR, *I. P. D.*

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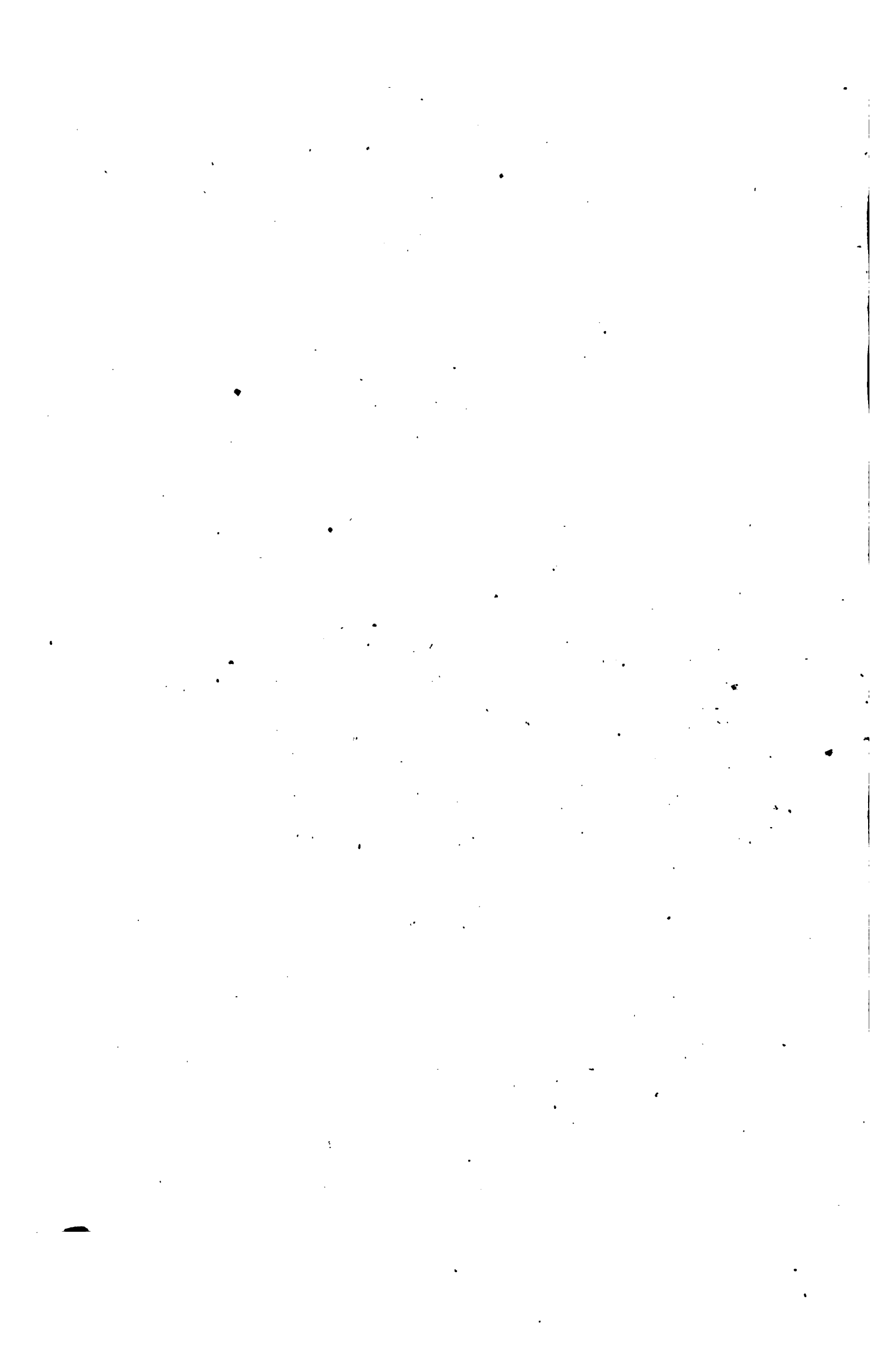
FROM THE
3d APRIL 1810, to 10th FEBRUARY 1821.

Published by Authority of the Court.

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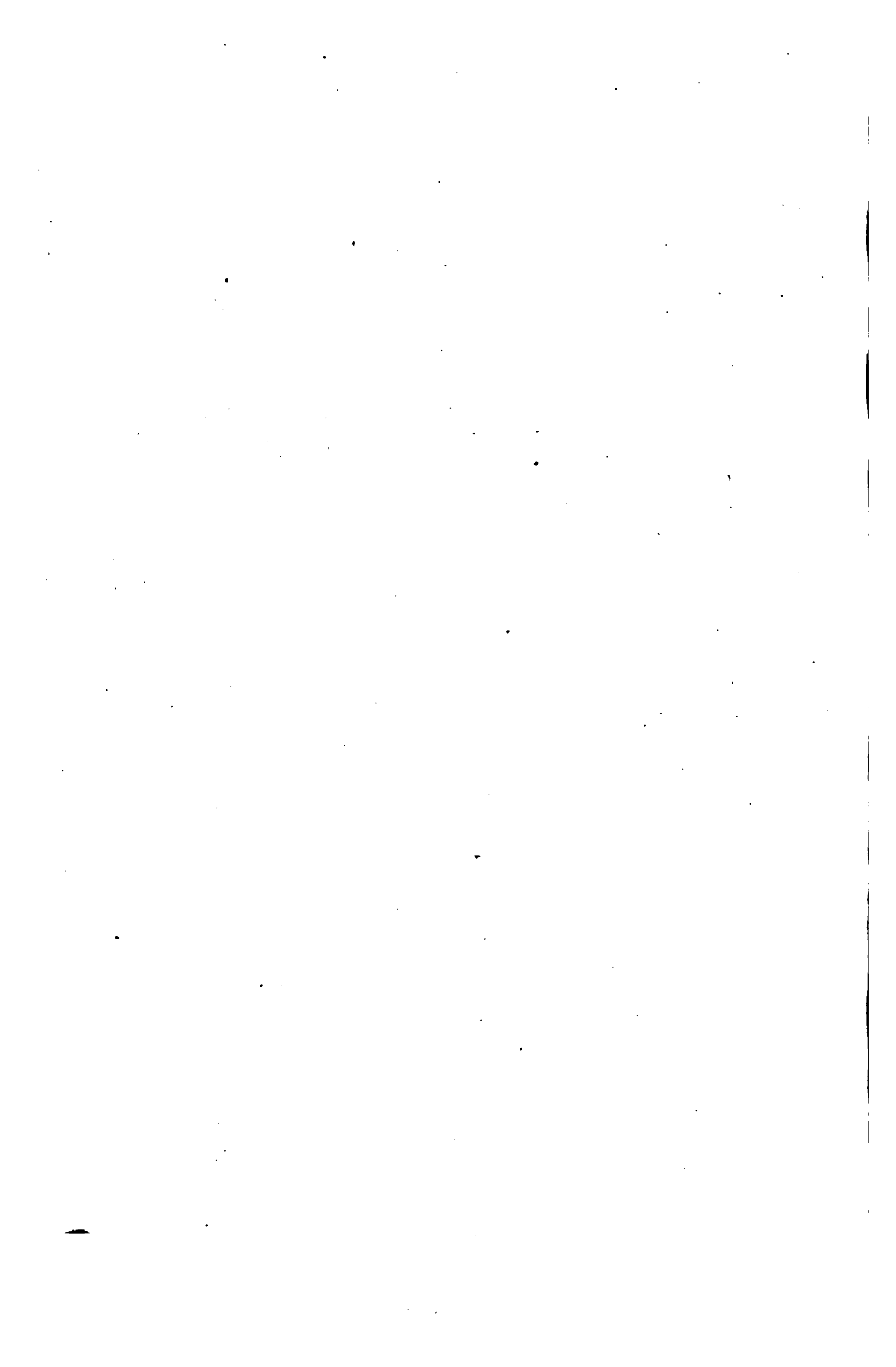
1821.



8th March 1799.

**‘ On the motion of the Lord Advocate as Dean of Faculty, the
‘ Lords allowed and authorised the Collectors of Decisions, ap-
‘ pointed by the Faculty of Advocates, to publish the Acts of
‘ Sederunt passed since the last publication of them in 1790,
‘ and in future ; and, for that purpose, to have access to, and take
‘ excerpts from the Sederunt Books of the Court.’**

**In virtue of this authority, the following publication contains
every entry in the Books of Sederunt, since the last publication,
which appeared to the Collectors of Decisions to be of any general
importance.**



ACTS
OF
SEDERUNT
OF THE
COURT OF SESSION.

April 3. 1810.

Appointment of an interim Judge Admiral.

Unto the Right Honourable the Lord Ordinary on the Bills,

*The Petition of William Campbell, Esq. Advocate, Principal Clerk
of the High Court of Admiralty ;*

Humbly Sheweth,

THAT by the death of Robert Hodshon Cay, Esquire, late 1810.
Judge of the said High Court, there is a vacancy in the
said office of a Judge, to the great inconvenience of the lieges.

May it therefore please your Lordship to appoint an interim
Judge till his Majesty's commission shall come down ap-
pointing a successor to Mr Cay : and your petitioner would
humbly suggest William Boswell, Esquire, advocate, he hav-
ing for about two years past acted as depute to Mr Cay ; and
to shew your Lordship that the present application is not
without precedent, an extract act and warrant is herewith
produced.

Your petitioner shall ever pray, &c.

(Signed) WM. CAMPBELL

Edinburgh, 3d April 1810.

Lord Meadowbank, Ordinary officiating on the Bills, having
considered this petition with the extract warrant produced there-
with, authorises and empowers the said William Boswell to exer-

A

cise

1810. cise the office of Judge of the High Court of Admiralty, until some person shall be named, and receive a commission from his Majesty, and the present nomination be thereby superseded; and ordains this petition, and deliverance thereon, to be insert in the books of sederunt. And the said William Boswell, having appeared before the Lord Ordinary, gave his oath *de fidei*.

(Signed) ALLAN MACONOCHIE.

May 23. 1810.

The Lord President recommended to communicate with the Lord Chancellor respecting the appointment of Permanent Lords Ordinary, &c.—Committee appointed as to Fees of Lords Clerks and of Depute Clerks Assistants,—Order as to giving in Answers to Reclaiming Petitions.

AT a meeting of the Lords of Council and Session, held this day, the Lord President read the report made by him to the Commissioners under the Scots Judicature Act on the 7th of March last, respecting the introduction of Permanent Ordinaries in the Outer-House, with the resolution of the Commissioners thereanent, which is in these terms:—

‘ The Lord President stated, that having, agreeably to the recommendation of the Commissioners appointed under the Scots Judicature Act, submitted to the consideration of the Lords of Council and Session how far the present mode of conducting business in the Outer-House might be improved by the Lords Ordinary being permanent in that situation, instead of exercising the duty by rotation,—his Lordship had now to report their opinion, that such change in the constitution of the Court is at present unnecessary and inexpedient.’

‘ The Lord President, on the part of the Judges, did further request the attention of the Commissioners to the various evils and inconveniences attending the present mode of conducting business by two Judges, one for each Division officiating each week in the Outer-House. It had now been the subject of experiment sufficient to ascertain that the inconveniences formerly complained of have neither been diminished, nor found to be balanced by any corresponding advantage. His Lordship therefore reported it as the opinion of the Judges, that the administration of justice will be greatly improved, by adopting the system proposed by the Scots commissioners in their interim report, of date the day of 1809, which had not been the subject of any definitive resolution.

‘ The meeting having considered what is above stated, resolved that the English commissioners, upon whose motion the consideration of their former interim report upon the subject had been

‘ been superseded, should be again requested to resume the same, 1810.
 ‘ and to concur in applying to his Majesty and Parliament for an
 ‘ alteration of the Judicature Act, in so far as it provides that
 ‘ two Judges, one for each Division, shall officiate each week in
 ‘ the Outer-House.’

The Court having heard the above report, recommended to the Lord President to communicate with the Lord Chancellor on the subject.

The Lord President also called the attention of the Court to those sections of the bill presently depending in Parliament, whereby decrees of certification in actions of ranking and sale are abolished, and whereby acts in processes of proving the tenor, and in reductions and improbations, are prohibited.

The Lords having accordingly considered the clauses in the bill above alluded to, recommended to the Lord President to communicate with the Lord Chancellor thereanent.

Thereafter, the Lords Balmuto, Hermand, and Robertson, were appointed a committee (whereof Lord Balmuto convener) to consider the application of the Lords clerks for augmentation of their fees, and a similar application from the depute clerks’ assistants, and to report.

The Lords next considered the propriety of extending the period for answering reclaiming petitions from fourteen to twenty days, in respect the time for petitioning is now extended to that space: And their Lordships accordingly agreed that the space for answering reclaiming petitions should be extended to twenty days, unless otherwise ordered by special appointment of the Court.

June 26. 1810.

Representation of the Clerks of Session with regard to the appointment of a Collector of Fees, and appointment by the Lord President of interim Collectors.

Unto the Right Honourable the Lords of Council and Session,

The Representation of the Principal and Depute Clerks of Session :

Humbly Sheweth,

THAT an act of Parliament has been passed within these few days, whereby it is enacted, that the present forms of extract in this Court are, from and after the passing of the act, abolished, together with all fees relating thereto, and a new set of fees is established, which are to be collected by the collector to be appointed *ad vitam aut culpam*, by the Lord President of the

ACTS OF SEDERUNT

1810. the College of Justice; and the representers are inhibited from receiving any paper into process, until the said collector shall mark thereupon that all the proper dues or fees thereon have been paid.

Under these circumstances, the representers presume humbly to suggest, that, in order to give time to the Lord President to appoint a collector, and to receive caution for his intromissions in terms of the statute, it is necessary that their Lordships do appoint an interim collector, or give such other directions as will enable the representers to carry on the business of the Court; which is humbly submitted by (Signed) JOHN FRINGLE, JA. FERRIER, JA. WALKER, COLIN MACKENZIE, WALTER SCOTT, H. M. BUCHANAN.

Edinburgh, 26th June 1810.

The Lords having considered the preceding representation, nominate, authorize, and appoint Robert Pitcairn, Thomas Miller, and Louis de Maria, to be interim collectors for the purpose of collecting the dues or fees established by the act of Parliament, referred to in said representation; they always complying with the regulations specified in said act, and being accountable in terms thereof, and to act until a collector shall be appointed.

(Signed) ROBT. BLAIR, I. P. D.

4th July 1810.

Interim Report of the Committee upon the Situation of the Clerks of the Ordinary Lords of Session.

LORD BALMUTO.

LORD HERMAND.

LORD ROBERTSON.

THE committee after paying every attention to the business committed to them, and making such inquiries as might enable them to form a proper judgment upon the subject, report to the Court,

That the memorial laid before them by the clerks is neatly and perspicuously drawn, bringing into one view, in the form of a schedule, the fees, as settled by Act of Sederunt, 1st August 1789, the augmentation proposed to be given in the year 1806, and the higher rate which is now suggested in consequence of later regulations tending to diminish the emoluments of the memorialists.

That it is expedient that men who have some labour and constant attendance, while they act in a most confidential capacity for the individual judges, on the continuance of whose life and health their employment depends, should be in a situation of respectability, not to be kept up without a considerable addition to their present fees.

The

The claim of the clerks for an addition to the fees now payable, rests upon two grounds, *1st*, The general increase of the expence of living since the year 1789, when a small addition to their fees was made. *2d*, The great diminution of their emoluments which will probably take place in consequence of the late Act of Sederunt, and of the Act of Parliament which has just been passed. 1810.

Upon the *first* of these heads, the committee do not think it necessary to say more, than that some addition to their fees is obviously requisite to enable them to meet the increased expence of living, and that what was proposed in 1806 may not be deemed sufficient for that purpose.

On the *second* head, the committee beg leave to report, that, although the Act of Sederunt and the Act of Parliament above mentioned, will probably occasion a considerable diminution of the emoluments of the Lords clerks, yet, that the extent of the loss which they will sustain must at present be entirely conjectural, as the Act of Parliament has been in force only for a few days, and the Act of Sederunt only since the beginning of the Session.

It farther appears to the committee, that no correct idea of the amount of the proposed augmentation can be formed at present, because that augmentation is proposed to be given in the form of an addition to the fees on enrolments, advisings, &c. the number of which will probably be much diminished, from the causes already mentioned, though to what extent it seems at present impossible to conjecture.

In these circumstances, the committee beg leave to report it as their opinion, that no permanent regulations can at present be made, and that it is necessary to wait till the practical effect of the Act of Parliament and Act of Sederunt are seen, before any accurate opinion can be formed, either as to the amount of the fees which the clerks will actually receive, or the probable amount of the sum which will be raised by the proposed addition.

At the same time, the committee further report, that, as there has been an evident diminution of the clerks fees during this session, for which no remuneration can be given, and as there will probably be a still farther diminution next session, therefore, a temporary augmentation should be made; and they beg leave to suggest an addition of two shillings on each enrolment and advising, and giving in papers, as specified in the Act of Sederunt 1st August 1789.

The clerks have considerable trouble in arranging, keeping, and laying before the judges, from time to time, the printed papers to be advised, day after day, by the Court; and, in the view of so far making up the diminution of emoluments already occasioned by new regulations, or expected to arise from the late Act of Parliament, a fee may be allowed to the memorialists upon these, though the committee are not at present in a condi-

1810. tion to ascertain with correctness the annual number of printed papers, or to suggest at what rate such fee should be fixed.

With respect to the Court of Teinds, it has long been considered as a grievance upon the clerks of all the Lords, one or two excepted, that, from a desire to save the trouble of attendance at different Bars, or some other motive, the teind clerks have taken upon them, in opposition to repeated orders of the Court, to make out the remits almost exclusively to those two Ordinaries, thereby increasing their trouble, but diminishing the emoluments of the clerks of the other Lords.

The expedient suggested in the memorial of establishing a divisible fund from such remits, would put the clerks upon an equal footing, but would leave the present burden upon the two Ordinaries. The committee, therefore, report, that the order for remitting to the whole Ordinaries in course, ought to be strictly enforced.

It is also suggested that the committee should be continued, and that each of the Lords clerks should be strictly enjoined to keep an exact account of all the fees which he shall receive between and the 11th of March next, distinguishing on what account they are received; such accounts to be laid before the Committee immediately on the rising of the next winter session; and that the committee should be directed to report their opinion as to a permanent table of fees on the 12th May thereafter.

(Signed) CLAUD I. BOSWELL.
GEORGE FERGUSON.
WM. ROBERTSON.

July 4. 1810.

Act of Sederunt for increasing the Fees payable to the Clerks of the Ordinary Lords.

THE Lords of Council and Session, having considered a report by a committee of their number, of the addition proper to be made to the fees payable to the Clerks of the ordinary Lords by the act of sederunt of the 1st of August 1789, enact and ordain, that, from and after the date hereof, an addition shall be made of two shillings upon each article specified in said act of sederunt; and declare that the act shall continue in force until the 12th day of June 1811; and appoint the same to be recorded in the books of sederunt, and copies thereof to be affixed on the walls of the Inner and Outer-House for the information of all concerned.

(Signed) RO. BLAIR, *I. P. D.*

4th July 1810.

1810.

Appointment of a Collector by the Lord President, in
terms of the act 50 Geo. III. ch. 112.

IN respect it is provided by the 20th section of an act passed in the present year of his Majesty's reign, intituled 'An act for abridging the form of extracting decrees of the Court of Session in Scotland,' &c. that the dues mentioned in the schedule annexed to the said act, shall be collected by a collector appointed by the Lord President of the College of Justice, holding his office *ad vitam aut culpam*, and discharging his duty in the manner provided by the said act; therefore, the Lord President, in virtue of the power entrusted to him, has this day nominated and appointed, and hereby nominates and appoints, James Marshall, writer in Edinburgh, to be collector of said dues, in terms of the said statute and schedule, and with all the powers thereby conferred, he finding and recording in the books of sederunt security, in terms of the statute, before entering upon office.

(Signed) RO. BLAIR, I. P. D.

Eod. die.

Act of Sederunt relative to Accounts of Expences, and
Office of Auditor.—Committee as to Lord's Clerks
Fees—continued.

THE Lords declare that the act of sederunt of the 6th of February 1806, relative to accounts of expences, and establishing the office of an auditor, shall continue in force until the 23d day of January next.—And the Lords continue the committee named in the resolution of the Court, of date the 23d day of May last, for the purposes therein mentioned, until the 12th day of May next, 1811; and direct a final report to be then made.

August 25. 1810.

Appointment of an interim Sheriff-Depute for the coun-
ty of Inverness.

*Unto the Right Honourable the Lord Ordinary on the Bills,
The Petition of Lockhart Kinloch, principal Sheriff-clerk of the
county of Inverness;*

Humbly Sheweth,

THAT Simon Fraser, Esquire, of Farraline, sheriff-depute of the county of Inverness, died unexpectedly upon Tuesday last, the 21st current; and as there is a considerable deal of public

1810. lic business presently in dependence, particularly the arrangements respecting the ensuing circuit, with other public matters falling under the cognizance and charge of the Sheriff, which will require immediate attention, the petitioner feels it to be his duty, in the capacity of sheriff-clerk, to represent the circumstances to your Lordship during the present vacation of the Court, humbly soliciting that you may be pleased to nominate a proper and qualified person to act as interim sheriff over the bounds of the county of Inverness, until such time as his Majesty's pleasure may be known, and a permanent Sheriff-depute appointed. That, in this view, the petitioner would further take the liberty of suggesting Mr John Fraser, advocate, the son of the late Mr Fraser of Farraline, as a gentleman who is in every respect qualified to fill the proposed situation of interim Sheriff, and whose appointment, the petitioner is convinced, would give perfect satisfaction to the county at large, and its inhabitants, both on his own account, and on that of his deceased father.

May it therefore please your Lordship to take the premises into consideration ; and, in respect of what is above set forth, to nominate, authorise, and appoint Mr John Fraser, advocate, who is presently residing at Inverness, to officiate as interim Sheriff-depute within the bounds of the county of Inverness, in room of his father, the late Mr Fraser of Farraline, until a permanent Sheriff-depute shall be appointed by his Majesty to said county, with full powers to the said Mr John Fraser to act, perform, and exerce the office of Sheriff-depute in such manner and form as any other interim Sheriff-depute has been in use to do in similar cases, and to dispense with the Minute-Book.

According to justice, &c.

(Signed) ROBT. DUNDAS, *Agent and
Mandatory for the petitioner.*

Edinburgh, 25th August 1810.—The Lord Polkemmet, Ordinary officiating on the Bills, having considered this petition, authorises and empowers the said John Fraser, advocate, to exerce the office of Sheriff-depute of the county of Inverness, until some person shall be named and receive a commission from his Majesty, and the present nomination be thereby superseded ; and ordains this petition and deliverance to be inserted in the books of sederunt ; and grants commission to the petitioner to take the oath of the said Mr John Fraser in common form, before entering on his said office.

(Signed) WILL. BAILLIE.

23d November 1810. 1810.

Petition of Patrick Small, Esquire, Advocate, for Authority to Assume the Surname of Keir.

Unto the Right Honourable the Lords of Council and Session,

The Petition of Patrick Small, Esquire, Advocate;

Humbly Sheweth,

THAT Patrick Keir, Esquire, of Kinmonth, by disposition, dated the 31st day of August 1803, obliged himself and his heirs to make resignation, and granted procuratory for resigning his lands of Kinmonth, lying in the sheriffdom of Perth, in the hands of his superiors, for new infeftments to be granted to himself and the heirs of his body, whom failing, to the petitioner, and his heirs and assignees, providing always, and expressly declaring, that the petitioner and his heirs, who shall succeed to the lands, shall be obliged to assume, and constantly use and bear the surname, arms, and designation of Keir of Kinmonth, as their proper surname, arms, and designation: That Mr Keir having lately deceased without heirs of his body, the petitioner was served heir of provision to him under said disposition; and, in compliance with said provision, has assumed the surname, arms, and designation of Keir of Kinmonth: That the petitioner, having practised at your Lordships Bar under the surname of Small, does not consider himself at liberty to use that of Keir, without your Lordships authority, and therefore makes this application for permission to do so.

May it therefore please your Lordships to authorize the petitioner to assume and use the surname of Keir in all proceedings in Court and elsewhere, wherein the petitioner may be concerned; and to appoint this petition, with your Lordships deliverance thereon, to be entered in the books of sederunt.

According to justice, &c.

(Signed)

WILLIAM MACDONALD.

Edinburgh, 23d November 1810.—The Lords having advised this petition, interpose their authority to the petitioner's change of surname from Small to Keir; and appoint the petition, with this deliverance thereon, to be inserted in the books of sederunt.

(Signed)

RO. BLAIR, I. P. D.

1810.

12th December 1810.

**Appointment of an Interim Commissary for commissariat
of Moray.**

Unto the Right Honourable the Lords of Council and Session,

The Petition of Patrick Duff, Commissary Clerk of Moray ;

Humbly Sheweth,

THAT by the death of John Grant principal commissary of Moray, the office of commissary for that commissariat has lately become vacant ; that as no commission from the Crown for exercising that office has as yet been obtained, and as there are several causes and other consistorial business depending before that Court, which, to the great inconvenience of the lieges, cannot be proceeded in until a new commissary be appointed, the petitioner has thought it incumbent upon him to apply to your Lordships to have an interim commissary appointed ; and he would humbly suggest George Fenton, Esquire, sheriff-substitute of Elginshire, who has for many years acted as depute-commissary, as a fit person to officiate until a new commissary be named.

May it therefore please your Lordships to authorize and appoint the said George Fenton, or any other person your Lordships may think proper, to exercise the office of commissary principal of Moray, in place of John Grant deceased, with the usual powers, ay and until his Majesty shall please to appoint a commissary for the said commissariat, or until farther orders from your Lordships, and to dispense with the minute-book.

(Signed)

JOHN CUNNINGHAME.

Edinburgh, 12th December 1810.—The Lords having heard this petition, they authorize and empower the said George Fenton to exercise the office of commissary principal of Moray, in place of the said John Grant, until some person shall be named, and receive a commission from his Majesty, and dispense with the reading hereof in the minute-book.

(Signed)

RO. BLAIR, *I. P. D.*

Edinburgh,

Edinburgh, 12th December 1810. 1810.

Appointment of an Interim Judge-Admiral.

Unto the Right Honourable the Lords of Council and Session,

The Petition of William Campbell, Esquire, Principal Clerk of the High Court of Admiralty, and of James Dickson his Depute :

Humbly Sheweth,

THAT, by the death of John Burnett, Esquire, late Judge of the said High Court, there is a vacancy in the said office of judge, to the great inconvenience of the lieges ; and the petitioners are therefore advised to prefer the present application to your Lordships.

May it therefore please your Lordships to appoint an interim judge to exercise the office of judge of the said high court, until some person shall be named and receive a commission from his Majesty ; and the petitioners would humbly suggest William Boswell, Esquire, Advocate, who for a considerable time acted as judge-depute, and afterwards as interim judge, appointed by your Lordships prior to the appointment of Mr Burnett. And your petitioner shall ever pray.

(Signed)

RO. JAMESON.

JAMES DICKSON.

Edinburgh, 12th December 1810.—The Lords having heard this petition, they authorize and empower the said William Boswell, Advocate, to exercise the office of Judge of the High Court of Admiralty, until some person shall be named and receive a commission from his Majesty, and dispense with the reading hereof in the minute-book.

(Signed)

RO. BLAIR, I. P. D.

Edinburgh, 23d January 1811.

Act of Sederunt, Enforcing Payment of Fines, continued.

THE Lords declare that the act of Sederunt for enforcing the payment of fines, &c. of date the 24th day of June 1806, shall continue in force until the 20th day of November next 1811. And, in the mean time, appoint the Lord President, the Lord Justice-Clerk, and the Lord Robertson, a committee, (whereof the Lord President, convener) to consider and revise the above act of Sederunt, and to report.

1811.

23d January 1811.

Act of Sederunt relative to Account of Expences and
Office of Auditor, continued.

THE Lords declare that the act of Sederunt of the 6th of February 1806, relative to accounts of expences, and the establishment of the office of auditor, shall continue in force until the 20th day of November next 1811: And, in the meantime, recommend to the committee, named on the 7th day of March last, for considering and revising said act of Sederunt, to make their report thereupon *quam primum*.

19th February 1811.

Order of the Prince Regent and Council for recording
the Prince Regent's Oath and Instrument for pre-
serving the Protestant religion.

THIS day the Lord President presented to the Lords a letter, addressed to him from his Majesty's Secretary of State for the Home Department, dated the 13th of February current 1811; together with the *oath* therein referred to, subscribed by his Royal Highness the Prince of Wales, as Regent of the United Kingdom of Great Britain and Ireland, for maintaining and preserving the true Protestant religion and church government in Scotland, as established by law; and an *instrument* there-to subjoined, signed by such of the members of the Privy Council as were then present, witnessing the same. Which oath and instrument, and letter accompanying the same, being read in presence of the Lords, They ordained the same to be recorded in the Books of Sederunt; and appointed Mr James Walker, Clerk, thereafter to transmit the said oath, and instrument, and letter, to the Lord-Clerk-Register, or, in his absence, to the person empowered by him to take charge of the records, to be put by them into the public register.

Follows the Secretary of State's Letter.

Whitehall, 13th February 1811.

MY LORD,—I have the honour to transmit to your Lordship herewith a duplicate of the oath taken by his Royal Highness the Prince Regent, on the 6th instant, relating to the security of the Church of Scotland, subscribed in the presence of his Majesty's Most Honourable Privy Council, who witnessed the same.

And

And his Royal Highness having been pleased to direct that the 1811.
said duplicate, so subscribed and witnessed, should be transmitted
to the Court of Session, to be recorded in the books of sederunt,
and afterwards to be furthwith lodged in the public register of
Scotland,—I have received his Royal Highness' commands to
signify to your Lordships his pleasure that the said instrument
be accordingly recorded in the books of sederunt, and afterwards
furthwith lodged in the public register of Scotland.—I have the
honour to be, my Lord, your Lordship's most obedient humble
servant,

(Signed)

R. RYDER.

(Addressed) The Right Honourable the Lord President.

Follows the tenor of the Oath and Instrument.

I, George Augustus Frederick, Prince of Wales, Regent of
the United Kingdom of Great Britain and Ireland, do faith-
fully promise and swear, that I shall inviolably maintain and
preserve the settlement of the true Protestant religion, with the
government, worship, discipline, rights, and privileges, of the
Church of Scotland, as established by the laws made there in
prosecution of the claim of right; and particularly by an act,
entituled, 'An act for securing the Protestant religion, and
' Presbyterian church government;' and by the acts passed in
the Parliament of both kingdoms for the union of the two king-
doms.—So help me God.

(Signed)

GEORGE, P. R.

On the sixth day of February, in the year of our Lord one
thousand eight hundred and eleven, at the Court at Carlton
House, his Royal Highness the Prince Regent did take and sub-
scribe the oath above written, in presence of the Right Honour-
able the Lords of the Privy Council, hereafter subscribing, viz.

(Signed)

Frederick.
William.
Edward.
Ernest.
Augustus Frederick.
Adolphus Frederick.
William Frederick.
C. Cantuar.
Eldon, C.
E. Ebor.
Camden, P.
Westmoreland, C. P. S.
Montrose.

R. B. Sheridan.
Grey.
Chandos Temple.
Mount Edgecumbe.
Carysfort.
Charles Abbot.
Hardwicke.
Granville Leveson Gower.
Morpeth.
Courtown.
George Thynne.
Clancarty.
Ossulston.

D

Stafford.

1811. Stafford.	Vassall Holland.
Ingram Hertford.	John Foster.
Lansdowne.	Sheffield.
Townshend.	Glenbervie.
Wellesley.	Sidmouth.
Aylesford.	St John.
Derby.	Grenville.
Winchelsea and Nottingham.	Castlereagh.
Douglas and Clydesdale.	Erskine.
Chesterfield.	Ar. Macdonald.
Sandwich.	Mulgrave.
Cholmondeley.	C. Long.
Lauderdale.	St Helens.
Spencer.	Harrowby.
Chatham.	W. Grant.
Bathurst.	W. Elliot.
Buckinghamshire.	J. Mansfield.
Grosvenor.	Cathcart.
Liverpool.	Robert Spencer.
J. C. Villiers.	Richard Fitzpatrick.
S. Grenville.	David Dundas.
Charles Arbuthnott.	George Ponsonby.
Powis.	Palmerston.
George Canning.	Teignmouth.
William Scott.	C. Manners Sutton.
George Tierney.	J. Trevor.
T. Wallace.	Arden.
Robert Dundas.	Donoughmore.
J. Anstruther.	Evan Nepean.
John Thynne.	Joseph Banks.
Redesdale.	J. Nicholl.
George Rose.	Sp. Perceval.

Appointment of Solicitor-General.

22d February 1811.

DAVID MONYPENNY, Esquire, appointed his Majesty's Solicitor-General, by commission under the Great Seal, dated 21st February 1811.

28th February 1811.

Lord Boyle admitted.

DAVID BOYLE, Esquire, admitted as a Judge of the Second Division, by the title of 'Lord Boyle,' in place of the late Lord Cullen, by letter from the Prince Regent, dated 15th February 1811.

14th

14th May 1811. 1811.

Appointment of Principal Clerk of Session.

DAVID HUME, Esquire, appointed one of the Principal Clerks of Session, in place of the late Mr John Pringle, by commission, dated 6th March 1811.

12th June 1811.

Act of Sederunt for increasing Fees of the Lords Clerks, continued.

THE Lords declare, that the act of Sederunt of the 4th day of July 1810, 'For increasing the fees of the clerks of the 'Ordinary Lords,' shall continue in force until the 20th day of November next.

10th July 1811.

Report of the Lords Committee on the Third Annual Report of the Deputy-Clerk-Register.

THIS day, the committee to whom, on the 10th day of March 1810, it was referred to consider the Third Annual Report of the Deputy-Clerk-Register, and to report their opinion thereon to the Court, gave in their said report, together with the draughts of four acts of Sederunt therein referred to; of which report the tenor follows:

REPORT of the Committee of the Lords of Council and Session, appointed to consider the Third Annual Report of the Deputy-Clerk-Register.

The Committee to whom it was referred to consider the Third Annual Report of the Deputy-Clerk-Register for the year 1809, and to report their opinion thereon to the Court, have carefully examined that report, with the appendix annexed to it, containing, in particular, the Quarterly Reports of Proceedings in execution of the orders of his Majesty's Commissioners on the Public Records of the Kingdom, in matters regarding Scotland; and have also conferred with the Deputy-Clerk-Register on the various matters contained or alluded to in the said Annual and Quarterly

1811. Quarterly Reports ; and they now submit to the Court the observations which have occurred to them on the several matters which have been thus brought under their notice.

1. With respect to the pecuniary establishment of his Majesty's General Register House, the Committee cannot refrain from expressing their concern, as on a former occasion, that any serious deficiency should be experienced. To complete the necessary arrangements in this great repository of the records of the kingdom,—to maintain it in a proper state of repair,—and, in some degree, to anticipate or correct the incessant injuries of time and of accident on the vast mass of books and of papers which it contains,—are objects of high national importance ; and it is therefore most earnestly to be wished that the means may be speedily provided for meeting that expenditure, without which, the objects now alluded to cannot be attained.

2. From that subject, the Committee have particular satisfaction in turning to the operations which have been in progress, since the date of the last Report, for the better preservation of some of the records in the General Register-House, for which the public are indebted to the interference of his Majesty's Commissioners on the Records of the Kingdom. The details of these operations are given in the Quarterly Reports above alluded to ; and, while the Committee express their approbation of the wise and liberal policy by which those measures have been dictated, they beg leave particularly to mark the satisfaction with which they have observed the progress now made in repairing decayed books and papers, and in rebinding, in a very suitable manner, some of the more important and voluminous series of records.

3. Another important class of measures, of which the details are likewise to be found in these reports, relates to the transcription, abridgement, and publication of some of the more ancient or useful records. In a former report, the committee had occasion particularly to take notice of the abridgement of the retours of services, as a work which promised to be of great utility ; and they have the satisfaction of finding that great progress has been now made towards its completion.

Under this head, the collection of royal charters, and the compilation of Parliamentary records are particularly mentioned in the third annual report, as in regular progress ; and the committee have had the satisfaction of observing the advancement of these two great works. From the dignity and high importance of both, they are of opinion, that too much pains cannot be bestowed in endeavouring to render them as perfect in all respects as may now be possible ; and from what has been already done, they are persuaded that the execution will prove not unworthy of the design.

Besides the great compilation of parliamentary proceedings, already in progress, the committee have peculiar satisfaction in observing the measures that are in contemplation for giving to the

the public a new edition of the Scottish statutes, more complete and accurate than those at present in use. From daily experience, the propriety and expediency of such a publication are abundantly apparent; and the committee cannot too earnestly recommend the prosecution of the design. 1811.

4th, In pursuance of a recommendation of the committee on a former occasion, there is given in the third annual report a detailed plan of the compilation of indexes of reference to some of the more voluminous and useful records. Of that plan, the committee fully approve, and recommend its immediate adoption, both in the registers of sasines, and in the record of deeds and probative writs in the books of Council and Session.

5th, With respect to the register of deeds, probative writs, and instruments of protest in the books of Council and Session, the committee have had again under their consideration the propriety of consolidating the three existing series of records, in the manner proposed by the Deputy Clerk Register. Without any interference with the pecuniary interest of the present keepers, it has been found practicable to carry this measure into immediate effect; and the draught of an act of sederunt for that purpose is annexed to this report. By that act, several other improvements will be also secured; namely, the use of books of record properly *marked*, and of the best quality, issued from the Lord Clerk Register's office; the use of minute-books also *marked*, and of the best quality, and the compilation of indexes of persons as recommended under the immediately preceding head.

6th, As the act of sederunt for regulating the register of sasines, recommended in a former report, has not yet been passed, the committee have again considered the draught of that act, and have added to it the necessary provisions for the formation of indexes of persons and places; and they beg leave to recommend its immediate adoption.

7th, The committee have also had again under consideration, the measures proposed in this and former annual reports, for better regulating the registers of hornings and inhibitions; and the draught of an act of sederunt for carrying those measures into effect has been approved of by them, and is annexed to this report.

8th, The committee have had also under their consideration, the draught of an act of sederunt for regulating the register of abbreviates of adjudications, on the plan suggested by the Deputy Clerk Register, and formerly recommended by this committee; and they now propose it for immediate adoption.

In the preceding observations, the committee have directed the attention of the Court to such only of the proceedings and measures stated in the third annual report as have appeared to call for immediate notice or interference. The system of the public records, subjected to the controul of the Lord Clerk Register and his Deputy, branches out into so many complicated details, as to require the utmost watchfulness and vigour to pre-

1811. serve the whole in a sound state. The various measures which have been recently adopted, for the improvement of the system, appear on the whole to be well calculated for the ends in view; and, in concluding this report, the committee may again repeat their assurance, that the authority of this Court shall not be withheld from giving the fullest efficacy to those measures, and to all the existing laws and regulations for the maintenance of the public records.

(Signed)

C. HOPE.

ALLAN MACONCHIE.

W^m. ROBERTSON.

June 6. 1811.

The Lords approved of the above report; and directed the Deputy Clerk Register to communicate copies of it to the Lord Clerk Register, and also to the Right Honourable his Majesty's Commissioners for the preservation and arrangement of the public records of the kingdom.

10th July 1811.

The Lords passed the four following acts of sederunt, referred to in the foregoing report, viz.

No. I.

July 10. 1811.

Act of Sederunt concerning the Registration of Deeds, Probative Writs, and Instruments of Protest, in the Books of Council and Session.

The Lords of Council and Session considering that the present establishment of the three separate offices for the registration of deeds, probative writs, and instruments of protest on bills and promissory notes, in the books of Council and Session, and the consequent separation of the registers into three similar parts or series, is inconvenient and unnecessary, do therefore ENACT and ORDAIN, that, from and after the first day of January next, there shall be only one office for the registration of deeds, probative writs, and instruments of protest, in the books of Council and Session, in which office the keepers of the three present offices shall attend and officiate in such numbers, or in such order and rotation as they shall find necessary for the regular dispatch of business; and that, in the said office, there shall be kept one series of minute books and registers for entering and recording all deeds and probative writs, and another series of minute books and registers for entering and recording all instruments

instruments of protest on bills and promissory notes; and, in order to ensure the greater regularity in the formation of these records, the Lords do further enact and ordain, that the said minute-books and registers shall be written in books issued to the foresaid keepers by the Lord Clerk Register, or the Depute Clerk Register, of a quality and form similar to those already in use to be issued to sheriff clerks and clerks of royal burghs, in pursuance of the act of the 49th of his present Majesty, chapter 42, intituled 'An Act for better regulating the public records of Scotland,' but for which books no more shall be charged than the prime cost thereof: Which minute-books and registers, so prepared and issued, the said keepers are hereby required exclusively to use. 1811.

And the Lords further enact and enjoin, that on each page of the said registers ruled with thirty lines, the keepers shall ingross (or cause to be ingrossed) two hundred words on an average; and if, on a computation of words in any ten successive pages of the record, the average number of words on each page shall be greater or less by fifteen words than the number above specified, it shall be competent to apply to this Court by complaint, in the name of the Lord Clerk Register, against the said keepers, who may be found transgressing, evading, or neglecting the foresaid regulation; whereupon the Lords declare, that they will proceed to inflict such penalties on the said keepers as the circumstances of the case may require; the said penalties being applicable to the establishment of his Majesty's general Register-House.

And whereas it has also been considered as highly expedient and useful, that alphabetical indexes of persons, for the purpose of easy reference to the foresaid register of deeds and probative writs, should be framed on a regular plan by the foresaid keepers, and transmitted by them to the general register house along with the relative minute-books and registers; the Lords enact and ordain that, to each minute book, prepared and issued by the Lord Clerk Register, or the Deputy Clerk Register, in the manner herein before authorised, there shall be annexed the plan and schedule of an index of persons in such form as the Lord Clerk Register, or the Deputy Clerk Register, under the sanction and controul of this Court, may direct; into which schedule, the said keepers shall forthwith, and in due order, transfer from the minute-book the names of all persons that have been entered therein, together with proper references to the said minute-book and relative register, where the instrument containing those names has been entered and recorded. And the Lords enact and declare that, in case of failure or neglect in the due execution of their duty, in the formation and transmission of the aforesaid indexes, the said keepers shall, on the complaint of the Lord Clerk Register, be found liable in a penalty of ten pounds for each book of which the aforesaid index has not been duly framed and

1811. and transmitted, over and above the actual expence that may be incurred by the Lord Clerk Register in framing or amending such index ; the aforesaid penalties being applicable to the funds of the establishment of his Majesty's General Register House.

And the Lords further declare that, upon application to them by complaint in the name of the Lord Clerk Register, they will strictly enforce, and severely punish any infringement or neglect of this act, or of any of the existing laws and regulations relative to the due formation of the said records and minute-books.

(Signed) WILL. CRAIG, I. P. D.

No. II.

10th July 1811.

Act of Sederunt concerning the Registers of Sasines, Reversions, &c.

The Lords of Council and Session considering that irregularities have long prevailed in the formation of the general and particular registers of sasines, reversions, &c. and in the rates according to which the dues of registration have been charged by the several keepers of these records, do therefore ENACT and ORDAIN, that, from and after the 1st day of August next, or at least the due notification of this act to the several keepers, on each page of the books issued to them by the Lord Clerk Register, or the Deputy Clerk Register, and ruled with thirty lines, according to the form at present in use, there shall be engrossed two hundred words on an average, if the instrument be in English, and one hundred and seventy words on an average, if the instrument be in Latin ; and that, for each page of the record so written, the said keepers shall be entitled to a fee of two shillings sterling, and the writing clerk to a separate fee of sixpence sterling ; and if, on a computation of the words on ten successive pages of the record, the average number of words on each page shall be greater or less by fifteen words than the numbers above specified, the said keeper shall forfeit his right to one-half of his said fee, and the writing clerk shall forfeit his right to the whole of his said fee : And it shall further be competent to the Lord Clerk Register to apply to this Court by complaint against the said keepers who may be found transgressing, evading, or neglecting the fore-said regulations ; whereupon the Lords declare, that they will proceed to inflict such penalties on the said keepers as the circumstances of the case may require.

And whereas it has been considered as highly expedient that the minute-books of the registers of sasines, reversions, &c. should be framed on a regular and uniform plan, and that the existing laws and regulations for the due formation of such minute-books should

should be carefully observed by the keepers of said registers, and duly enforced, the Lords enact and ordain, that, from and after the 1st day of October next, or so soon thereafter as the necessary preparations can be made, along with every successive book of record issued by the Lord Clerk Register, or the Deputy Clerk Register, to any of the said keepers, there shall be delivered another book, properly prepared and marked for the purpose of a minute-book; which books, so prepared and issued, the said keepers are hereby required exclusively to use, and transmit to the General Register House; for which minute-books there shall no more be chargeable against the said keepers than the prime cost thereof: And the Lords do further declare, that, upon application to them by complaint in the name of the Lord Clerk Register, they will strictly enforce this act, and severely punish any infringement or neglect of it, or of any of the existing laws and regulations relative to the due formation of the said records and minute-books. 1811.

And whereas it has also been considered as highly expedient and useful that alphabetical indexes of persons and places, for the purpose of easy reference to the registers of sasines, reversions, &c. should be framed on a regular plan by the foresaid keepers, and transmitted by them to the General Register House along with the relative minute-books and registers, the Lords enact and ordain, that, to each minute-book prepared and issued by the Lord Clerk Register, or the Deputy Clerk Register, to the said keepers in the manner herein before authorised, there shall be annexed the plan and schedule of an index of persons, in such form as the Lord Clerk Register, or the Deputy Clerk Register, under the sanction and controul of the Court, may direct; into which schedule the said keepers shall forthwith, and in due order, transfer from the minute-book, the names of all persons and places that have been entered therein, together with proper references to the said minute-book, where the instrument containing those names has been entered. And the Lords hereby ordain and declare, that, in case of failure or neglect in the due execution of their duty in the formation and transmission of the aforesaid indexes, the said keepers shall, on the complaint of the Lord Clerk Register, be found liable in a penalty of ten pounds for each book of which the aforesaid indexes have not been duly framed and transmitted, over and above the actual expence that may be incurred by the Lord Clerk Register in framing or amending such indexes; the aforesaid penalties being in all cases applicable to the funds of the establishment of his Majesty's General Register House; declaring always, that the failure of the keepers in the observance of the regulations introduced by this act shall not affect the validity and legal force of those instruments which have been duly registered in terms of the act of Parliament relative thereto.

And further, the Lords think it fit hereby to declare, that, in fixing the rates of registration herein before enacted, they have

1811. had respect to the increased expence and responsibility to which
 the keepers of the aforesaid registers are made liable by the act.
 (Signed) WILL. CRAIG, I. P. D.

No. III.

10th July 1811.

Act of Sederunt concerning the Registers of Hornings and of Inhibitions.

THE Lords of Council and Session, considering that irregularities have prevailed in the formation of the general register of hornings and general register of inhibitions, do ENACT and ORDAIN, that, from and after the 1st day of October next, the foresaid registers shall be respectively written in books issued to the keepers thereof by the Lord Clerk Register or Depute Clerk Register, of a quality and form similar to those already in use to be issued to sheriff-clerks and clerks of royal burghs, in pursuance of an act of the 49th of his present Majesty, chap. 42, intituled, 'An act for better regulating the public records of Scotland,' but for which books no more shall be charged than the prime cost thereof; which books, so prepared and issued, the said keepers are hereby required exclusively to use and transmit to his Majesty's General Register House.

And the Lords do further enact and ordain, that, on each page of the foresaid books, ruled with thirty lines, there shall be engrossed two hundred words on an average; and if, on a computation of the words on any ten successive pages of the record, the average number of words on each page shall be greater or less by fifteen words than the number above specified, it shall be competent to apply to this Court by complaint in the name of the Lord Clerk Register, against the said keepers, who may be found transgressing, evading; or neglecting this regulation; whereupon the Lords declare, that they will proceed to inflict such penalties on the said keepers as the circumstances of the case may require; the said penalties being applicable to the establishment of his Majesty's General Register House.

And the Lords do further enact and ordain, that, from and after the 1st day of October next, or so soon thereafter as the necessary preparations can be made, along with every successive book of record issued by the Lord Clerk Register, or the Deputy Clerk Register, to the foresaid keeper of the general registers of hornings and of inhibitions, or to sheriff-clerks and steward-clerks, as keepers of the particular registers of hornings and of inhibitions for their respective shires or stewartries, there shall be

be delivered another book, properly prepared and marked for the purpose of a minute-book ; which book, so prepared and issued, the said keepers are hereby required exclusively to use and transmit to his Majesty's General Register House, but for which minute-book no more shall be charged than the prime cost thereof. 1811.

And whereas it has also been considered as highly expedient and useful, that alphabetical indexes of persons, for the purpose of easy reference to the foresaid registers of hornings and inhibitions, should be framed on a regular plan by the foresaid keepers, and transmitted by them to the General Register House, along with the relative minute-books and registers, the Lords enact and ordain, that, to each minute-book prepared and issued by the Lord Clerk Register, or the Deputy Clerk Register, in the manner herein before authorised, there shall be annexed the plan and schedule of an index of persons, in such form as the Lord Clerk Register, or the Deputy Clerk Register, under the sanction and controul of this Court, may direct ; into which schedule the said keepers shall forthwith, and in due order, transfer from the minute-book the names of all persons that have been entered therein, together with proper references to the said minute-book, and relative register, where the instrument containing these names has been entered and recorded. And the Lords enact and declare, that, in case of failure or neglect in the due execution of their duty, in the formation and transmission of the aforesaid indexes, the said keepers shall, upon complaint, in the name of the Lord Clerk Register, be found liable in a penalty of L.10 for each book of which the aforesaid index has not been duly framed and transmitted, over and above the actual expence that may be incurred by the Lord Clerk Register in framing or amending such index ; the aforesaid penalties being applicable to the funds of the establishment of his Majesty's General Register House.

And the Lords do further declare, that, upon application to them by complaint in the name of the Lord Clerk Register, they will strictly enforce this act, and severely punish any infringement or neglect of it, or of any of the existing laws and regulations relative to the due formation of the said records and minute-books.

(Signed) WILL. CRAIG, I. P. D.

No. IV.

10th July 1811.

Act of Sederunt concerning the Registration of the Abbreviates of Adjudication.

THE Lords of Council and Session, considering that, by an act of Sederunt, dated 18th January 1715, it was ordained, *inter alia*, That a principal abbreviate, signed by the Judge pronouncer of

1811. a decret of adjudication, when given in to the clerk of the bills to be recorded, shall be retained by the said clerk, to be the warrant of any posterior extract, and that a similar practice obtains with respect to the abbreviates of those acts and orders for the adjudication of the estates of bankrupts in favour of trustees, signed by a Principal Clerk of Session, which by statute are required to be recorded in the register of abbreviates of adjudications; and considering that the practice which has taken place of afterwards transcribing these abbreviates into books of record, of which the principal abbreviates are considered as the warrant, is unnecessary, do ENACT and ORDAIN, that the transcription of such abbreviates into books of record shall from henceforth be discontinued by the clerks on the bills; and that, from and after the 1st day of January 1800, at which period the last book of record hitherto framed terminates, the foresaid principal abbreviates, properly arranged and bound in volumes, shall be held as the only record thereof, and, as such, shall be duly transmitted to, and deposited in his Majesty's General Register House.

And in order that the said record may be hereafter framed in a uniform and proper manner, the Lords enact and ordain, that, from and after the 1st day of January next, the principal abbreviate of every decret of adjudication, which is to be deposited with the clerks of the bills, shall be carefully engrossed on paper of the same quality and size as that used for books of record now issued from his Majesty's General Register House, having thirty lines ruled on each page, whereon shall be written at the rate of two hundred words, but for which principal abbreviate so written, the same fee shall be chargeable as for the other duplicate thereof, framed and written according to the existing laws and regulations relative thereto: And the Lords further enact and ordain, that of these other instruments which are appointed to be recorded in the register of abbreviates of adjudications, such as signatures of charters of adjudication presented and passed in Exchequer, and letters of horning at the instance of adjudgers against subject superiors, the originals of which are returned to the parties, faithful transcripts shall be made and certified by the clerks of the bills, or their deputies, on paper of the same size and quality, and in the same manner as is above directed with respect to abbreviates of adjudications; and it is ordained that the said abbreviates, signatures, and hornings so framed or transcribed, shall be duly arranged according to the order of the minute-book, and bound in volumes not exceeding 288 leaves in each volume; and the same shall be held as the true record thereof, and, as such, shall be duly transmitted to, and deposited in his Majesty's General Register House.

And the Lords do further enact and ordain, that, from and after the 1st day of January next, the minute-book of the foresaid register of abbreviates of adjudication, shall be written in books properly framed and marked, to be issued to the keepers thereof by the Lord Clerk Register, or the Deputy Clerk Register, but
for

for which minute-book no more shall be charged than the prime cost thereof. 1811.

And whereas it has also been considered as highly expedient and useful, that alphabetical indexes of persons, for the purpose of easy reference to the foresaid register of abbreviates of adjudications, should be framed on a regular plan by the keepers thereof, and transmitted by them to the General Register House, along with the relative minute-books and registers, the Lords enact and ordain, that, to each minute-book prepared and issued by the Lord Clerk Register, or the Deputy Clerk Register, to the said keepers, in the manner herein before authorised, there shall be annexed the plans and schedules of two different indexes, the one of persons and the other of places, in such form as the Lord Clerk Register, or the Deputy Clerk Register, under the sanction and controul of this Court, may direct; into which schedule, the said keepers shall forthwith, and in due order, transfer from the minute-book the names of all persons and places that have been entered therein, together with proper references to the minute-book and register, where the instrument containing those names has been entered and recorded. And the Lords enact and ordain, that, in case of failure or neglect in the due execution of their duty, in the formation and transmission of the aforesaid indexes, the said keepers shall, on the complaint of the Lord Clerk Register, be found liable in a penalty of L.10 for each book of which the aforesaid indexes have not been duly framed and transmitted, over and above the actual expence that may be incurred by the Lord Clerk Register in framing or amending such indexes; the aforesaid penalties being applicable to the funds of the establishment of his Majesty's General Register House.

(Signed) WILL. CRAIG, I. P. D.

July 11. 1811.

Act of Sederunt authorising additional fees by the Assistants of the Depute Clerks of Session.

THE Lords of Council and Session having taken into their consideration an application made to them by John Kermack, James Hay, Thomas Denham, John Balvaird, George Lang, and Thomas Beveridge, assistant clerks in the Outer-House, with the report thereon by Lords Balmuto, Hermand, and Robertson, do hereby enact and ordain, that, from and after the date hereof, the said assistant clerks, and their successors in office, shall be entitled to receive the following fees, over and above those which are at present payable to them:

For lodging representations,	-	-	-	L.0	1	0
Answers to representations,	-	-	-	0	1	0
	G					Condescendences,

1811. Condescendences,	-	-	-	-	-	-	L.0	1	0
Answers thereto,	-	-	-	-	-	-	0	1	0
Minutes,	-	-	-	-	-	-	0	1	0
Answers thereto,	-	-	-	-	-	-	0	1	0
Memorials and informations,	-	-	-	-	-	-	0	1	0
Replies and duplies,	-	-	-	-	-	-	0	1	0
Defences,	-	-	-	-	-	-	0	1	0
Amendments of libel,	-	-	-	-	-	-	0	1	0
Interests and productions in rankings, multiplepoint- ings, and reductions,	-	-	-	-	-	-	0	1	0
Depositions,	-	-	-	-	-	-	0	1	0
Accounts of expences,	-	-	-	-	-	-	0	1	0
Reports of accountants,	-	-	-	-	-	-	0	1	0
States,	-	-	-	-	-	-	0	1	0
Objections,	-	-	-	-	-	-	0	1	0
Answers thereto,	-	-	-	-	-	-	0	1	0
For each borrowing,	-	-	-	-	-	-	0	1	0

And the Lords ordain the said fees to be paid to the assistants severally, who perform the duty for which they are allowed; and appoint this act to be recorded in the books of sederunt, and to be printed and published in the usual form, for the information of all concerned, and to be intimated in the minute-book. To be in force for two years.

(Signed) WILL. CRAIG, I. P. D.

November 12. 1811.

Lord President admitted.

THE Right Honourable Charles Hope, late Lord Justice-Clerk, admitted as Lord President, in place of the late Lord President Blair, by letter from the Prince Regent, dated 10th October 1811.

Eod. Die.

Lord Justice-Clerk admitted.

LORD BOYLE admitted as Lord Justice-Clerk, in place of Lord Justice-Clerk Hope, admitted as Lord President, by Commission dated 19th October 1811.

November

November 12. 1811. 1811.

Lord Woodhouselee removed to First Division.

LORD WOODHOUSELEE removed from First to Second Division, in consequence of being appointed a Lord of Justiciary, in terms of Act 48 Geo. III. ch. 151.

November 15. 1811.

Lord Craigie admitted.

ROBERT CRAIGIE, Esquire, admitted a Judge of the Second Division, by the title of 'Lord Craigie,' in place of Lord Polkemmet, resigned, by letter from the Prince Regent, dated 6th September 1811.

November 19. 1811.

Acts of Sederunt relative to Fines,—Accounts of Expences,—Office of Auditor,—and increase of fees to Lords Clerks, continued.

THE Lords declare that the Act of Sederunt, of date 24th June 1806, for enforcing the payment of fines, &c. shall continue in force till the third sederunt day in January next.

The Lords declare, that the Act of Sederunt of the 6th February 1806, relative to accounts of expences, and the establishment of the office of auditor, shall continue in force until the 19th day of November 1812.

And the Lords also declare, that the Act of Sederunt of the 4th July 1810, for increasing the fees of the clerks of the ordinary Lords, shall likewise continue in force until the said 19th day of November 1812.

November

1811.

November 30. 1811.

Lord Balgray admitted.

DAVID WILLIAMSON, Esquire, admitted a Judge of First Division by the title of 'Lord Balgray,' in place of Lord Woodhouselee, removed to Second Division, by letter from the Prince Regent, dated 15th November 1811.

Eod. Die.

Lord Gillies admitted.

ADAM GILLIES, Esquire, admitted a Judge of Second Division by the title of 'Lord Gillies,' in place of Lord Newton, deceased, by letter from the Prince Regent, dated 23d November 1811.

December 20. 1811.

Appointment of interim Sheriff-depute of county of Kincardine.

Unto the Right Honourable the Lords of Council and Session,

The Petition of William Young, Sheriff-Clerk of the county of Kincardine ;

Humbly Sheweth,

THAT, in consequence of the promotion to the Bench of the Honourable Adam Gillies, late Sheriff-depute of the said county of Kincardine, there is a vacancy in the said office of sheriff-depute, to the great inconvenience of the lieges ; and the petitioner is therefore advised to prefer the present application to your Lordships.

May it therefore please your Lordships to appoint an interim Judge to exercise the office of Sheriff-depute of the said county, until some person shall be named and receive a commission from his Majesty.

According to justice, &c.

(Signed)

ADAM DUFF.

Edinburgh,

Edinburgh, 20th December 1811.—The Lords having heard this 1812. petition, they authorise and empower Andrew Clephane, Esquire, advocate, to exercise the office of Sheriff-depute of the county of Kincardine, until a Sheriff-depute for the said county shall be nominated by the Crown, and he be superseded. Dispense with the Minute-Book; and ordain this warrant to be inserted in the books of sederunt.

(Signed) C. HOPE, *I. P. D.*

21st December 1811.

Act of Sederunt relative to the Reclaiming Days running in the Christmas Recess.

THE Lords resolve that, in time coming, the reclaiming days, both against Inner-House and Outer-House interlocutors, shall run in the Christmas recess, so, however, that they shall not be held to expire till the box-day in the recess, when they shall become final, whether the reclaiming days be or be not then expired, unless a representation or petition be given in on or before the said box-day, without prejudice to parties taking out extracts, according to the existing regulations; and appoint this resolution to be insert in the books of sederunt, and intimated on the walls of the Inner and Outer-House in common form.

(Signed) C. HOPE, *I. P. D.*

14th January 1812.

Authority for publishing Acts of Sederunt of the Court from 1532 to 1553.

THE Lords considering that they had formerly resolved to authorise the publication of the volume lately published of the Acts of Sederunt of this Court, 'from May 1532 to January 1553,' &c. under the direction of Sir Ilay Campbell of Succoth, Baronet, the presiding member of the Parliamentary Commissioners for enquiring into the administration of justice in Scotland; (published also under the authority of those Commissioners); but that it had been omitted at the time, to enter their resolution in the Sederunt Book; they do now, therefore, appoint this entry to be made, declaratory of that resolution; and that the same be subscribed by the Lord President, in the name of the Court.

(Signed) C. HOPE, *I. P. D.*

1812.

14th January 1812.

Act of Sederunt relative to Fines, continued.

THE Lords declare, that the act of sederunt of 24th June 1806, for enforcing the payment of fines, &c. shall continue in force till the third sederunt day in March next.

11th March 1812.

Warrant appointing Lord Gillies to sit in the First Division, and Lord Bannatyne in the Second Division of the Court.

THE Judges of both Divisions of the Court having met in the Chamber of the First Division, and taken their seats on the Bench, the Lord President presented the following royal warrant, 'appointing Adam Gillies, Esquire, to sit in the First Division, and William M'Leod Bannatyne, Esquire, to sit in the Second Division of Judges in Scotland;' which having been read by the clerk was appointed to be insert in the books of sederunt, and is of the tenor following :—

In the name and on the behalf of his Majesty,

GEORGE, P. R.

George the Third, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, &c. to all to whom these presents shall come, greeting.—Whereas, by an act passed in the 48th year of Our reign, intituled 'An act concerning the administration of justice in Scotland, and concerning appeals to the House of Lords,' it is enacted, that, in each of the two Divisions of the Court of Session in which the Judges or Lords of Session shall usually sit, there shall be an equal number of the Judges of the Court of Justiciary, including the Lord Justice-Clerk. And whereas, in consequence of the resignation of Our trusty and well beloved William Craig, Esq. as a Judge of Justiciary, and the appointment of Our trusty and well beloved Adam Gillies, Esq. one of the ordinary Lords of Session, as a Judge of Justiciary, in the place of the said William Craig, it is necessary, in pursuance of the provisions of the said act, that the said Adam Gillies, who was, on the 23d of November 1811, appointed by Us usually to sit in the Second Division of the said Court, should now be appointed usually to sit in the First Division of that Court; and that, in consequence of such appointment, one of the ordinary Lords or Judges of Session, now usually sitting in

in the First Division of the said Court, should be appointed 1812. usually to sit in the Second Division thereof. We therefore do hereby, by this instrument or warrant under Our royal sign manual, appoint the said Adam Gillies to be one of the Judges or Lords of Session who shall usually sit in the First Division of the said Court : And We being well informed of the willingness of Our trusty and well beloved William M'Leod Bannatyne, Esq. of Bannatyne, now usually sitting in the First Division of the said Court, under and by virtue of Our warrant, dated 22d August 1808, to be one of the Judges or Lords of Session who shall hereafter usually sit in the Second Division of the said Court, We do hereby appoint the said William M'Leod Bannatyne to be one of the Judges or ordinary Lords of Session who shall hereafter usually sit in the Second Division of the said Court of Session. Given at Our Court at Carlton House, the third day of March 1812, in the fifty-second year of Our reign.

By the command of his Royal Highness the Prince Regent, in the name and on the behalf of his Majesty.

(Signed) R. RYDER.

Opinion of the Court with regard to the equal distribution of Justiciary Judges between the two Divisions.

The Lords think it necessary, on this occasion, to enter on record their opinion, that though the necessity of creating a vacancy in the First Division, to make way for the statutory distribution of the Judges of Justiciary between the Divisions, and the consent of Lord Bannatyne to one translation, may warrant this present interposition of the Royal authority, they humbly think that the translation of Judges from one Division to another, whether with or without their consent, cannot be accomplished by the Royal authority at discretion, nor otherwise than to carry into execution the provisions of law. But they are also humbly of opinion, that, as the necessary vacancy could not have been created, on the present occasion, without the consent of Lord Bannatyne, or some other of the ordinary Lords of the First Division, it is not fitting that the fulfilment of the law should, on the one hand, remain dependent on the will of individual Judges, or, on the other, that there should be vested in the Crown a right of arbitrary selection, without their consent. They, with due deference, conceive that the statutory distribution of the Judges of Justiciary is unnecessary ; and that the translations of Judges arising from it, while causes are in the course of decision before them individually, and the Divisions to which they belong, are attended with many inconveniencies, for which a remedy could not easily be provided,—they therefore deem a repeal of the enactment of the late statute, ordaining the equal distribution of the Judges of Justiciary between the Divisions, a desirable measure.

Lord

1812. Lord Gillies thereupon remained with the judges of the First Division, and Lord Bannatyne proceeded with the Judges of the Second Division, to take his seat on their Bench.

11th March 1812.

Act of Sederunt relative to Fines and Amands continued.

THE Lords renew the act of sederunt of 24th June 1806, relating to fines and amands, till the first sederunt day of June next: And they do hereby strictly enjoin the clerks of the Inner and Outer-House strictly to see that the same be carried into execution, and that they do levy the fines and amands now due and to be incurred, as they will be answerable to the Court; and report their proceedings to the Court on the first sederunt day of May next.

(Signed) C. HOPE, *I P. D.*

19th May 1812.

Procedure relative to the Earl of Findlater and Seafield's Settlements.

THE Lord President informed the Court that he had this forenoon received in Court a sealed packet from the Postmaster-General, addressed 'To the Supreme Court of Scotland, called the Court of Session, Edinburgh,' with this marking thereon: 'The will and testament of the late Right Honourable the Earl of Findlater and Seafield.' That the envelope or cover of this packet was sealed with three seals, two whereof had been broken when his Lordship received it, the third being entire. And, in this state, the packet was delivered to Mr Walker, the senior clerk, to be produced to the Court to-morrow, when both Divisions would meet. That, along with this packet, the Postmaster-General had forwarded to the Lord President a letter from Thomas Coutts, Esquire, banker in London, relative thereto, which is herein after ingrossed.

20th May 1812.

The Judges of both Divisions of the Court being met, the clerk produced the sealed packet mentioned in yesterday's sederunt; which, at their desire, and in their presence, he now opened, and the same was found to contain an attested copy of the last will and testament of the late Earl of Findlater and Seafield, and a certificate of the death of his lordship, with a letter from

from Johan Gottlieb Nacke, who is said to be the Grand Bailiff to the King of Saxony, addressed 'to the Right Honourable the Lord President and Assessors of the Court of Session:' Which letter having been read, the Court appointed the will and certificate, with the foresaid letter, to be recorded in the register for probative writs, for behoof of all concerned; but desired that the said writs should not be removed from the register without an order of Court. The clerk was also desired to write to Mr Nacke, merely to acknowledge receipt of the said writs, and to say, that the Court had done what was consistent with their duty on the occasion. Whereupon the writings above mentioned, contained in the said packet, were immediately delivered by the clerk to the keeper of the record, to be recorded and kept in his custody, agreeably to the order of the Court: And Mr Walker, the clerk, thereafter reported, that he had wrote to Mr Nacke the following acknowledgement of the receipt of the said packet, of which the Court approved, viz.

(Copy.)

Edinburgh, 20th May 1812.

SIR,—I am desired by the Lord President and the other Judges of the Court of Session, to inform you, that his Lordship did yesterday receive your letter, enclosing an attested copy of the last will and testament of the late Earl of Findlater and Seafield, with a certificate of his death; and that the Court have given directions for doing what is usual on such occasions. I have the honour to be, Sir, your most obedient and very humble servant,

(Signed) J. A. WALKER,
One of the Principal Clerks
of the Court of Session in
Scotland.

(Addressed) *The Honourable Johan Gottlieb Nacke,
Aulick Counsel and Grand Bailiff at Dresden.*

*Follows the tenor of the letter from Thomas Coutts, Esq. banker
in London, accompanying the foresaid sealed packet.*

(Copy.)

Strand, London, 16th May 1812.

MY LORD,—The inclosed packet was addressed to us by Messrs. Perrigaux and Co. of Paris, with directions to forward it in the manner which might appear to us most likely to secure its safe delivery. As it contains papers of great consequence to a distinguished family in Scotland, we hope to be excused in putting it under your cover, and in requesting your acknowledgement of it. We are, My Lord, Your Lordship's most obedient servants,

(Signed) THOMAS COUTTS & Co.

(Addressed) *To the Postmaster General for Scotland.*

I

Follows

1812.

*Follows Mr Walker's Letter to Messrs Coutts & Co.**Edinburgh, May 21. 1812.*

SIRS,—I am directed by the Lord President and other Judges of the Court of Session, to transmit to you the inclosed letter to Mr Nacke, Aulick Counsel and Grand Bailiff at Dresden. It relates to the settlements of the late Earl of Findlater and Seaffield. And I am desired by the Court to request of you to forward the letter by the first safe opportunity. It is, however, proper to inform you, that Mr Nacke, in his letter to the Court, desires that the answer may be sent 'by the Transport Office in London, who might be kind enough to forward it to the Saxon Embassy at Paris.'

Please write me a few lines, acknowledging the receipt of this letter. I am, Sirs, your most obedient and very humble servant.

(Signed) JAMES WALKER.

(Addressed) Tho'. Coutts, Esq. & Co. Bankers, London.

Follows Answer to the last Letter.

Strand, London, May 26th 1812.

SIR,—We have received the favour of your letter, dated 21st instant, and we shall pay particular attention to forward the inclosure it contains to Mr Nacke, to the Transport Office, to be forwarded by the first cartel to Paris, in the manner recommended by Mr Nacke, as this appears to us to be the safest mode for its conveyance. We are, Sir, your most obedient servants.

(Signed) THO'. COUTTS & Co.

To James Walker, Esq.

26th May 1812.

Sentence against Robert Wright for imposition on the Court.

THE Lords having resumed consideration of the minute for James Gillies and his commissioners, and interlocutors, with the statements of Robert Wright, writer in Glasgow, one of the parties, with regard to his conduct in this cause, and also the examinations of Mrs Gillies and Donald M'Pherson taken in presence of the Court, find and declare, that the said Robert Wright

Wright has been guilty of imposition upon the Court, by carrying on before the Lord Ordinary a litigation in name of William Watson, as in the right of certain debts and inhibitions, of which the said Robert Wright had previously acquired a conveyance to himself, and also of endeavouring to obtain from Mrs Gillies a consent to a measure directly contrary to the wishes of her husband's commissioners and interdictors, as well as to repeated interlocutors of the Lord Ordinary; and therefore fine and amerciate him in the sum of ten guineas to the poor, and grant warrant to macers and messengers at arms to incarcerate him until the same be paid; Find him liable in the expences incurred in this investigation; modify the same to ten guineas, and decern for payment thereof to the commissioners and interdictors of James Gillies; and, further, ordain the said Robert Wright to be censured and admonished from the chair; and appoint this sentence to be recorded in the books of sederunt, in order to deter others from similar practices in time coming.

(Signed) D. BOYLE, I. P. D.

2d June 1812.

Act of Sederunt relative to Fines and Amends continued.

THE Lords renew the Act of Sederunt, of 24th June 1806, relating to fines and amends, till the third sederunt day of November next.

(Signed) C. HOPE, I. P. D.

10th June 1812.

Appointment of *interim* Clerk to the Register of Hornings, Inhibitions, &c.

Unto the Right Honourable the Lords of Council and Session,

The Petition of Robert Newbigging, Writer in Edinburgh, and Depute-Clerk of the General Register of Hornings, Inhibitions, &c.

Humbly Sheweth,

THAT James Newbigging, Esquire, late of Whitehouse, and formerly writer in Edinburgh, the petitioner's uncle, was principal clerk and keeper of the general register of hornings, inhibitions,

1812. inhibitions, &c. for Scotland; and that the petitioner has, for several years past, held a deputation under him, as clerk in that office, by whom the business has been carried on for a considerable time.

That the said James Newbigging, having died this morning, the office of clerk thereby became vacant; and, as it is necessary for expediting the business of the public, that no delay should take place, the present application becomes necessary, to have the authority of the Court interponed, by appointing an interim keeper of the said register, till a new commission from the Crown shall be presented, as appears from the Acts of Sederunt to have been done, of these dates, 21st January and 9th March 1748, and similar cases.

May it therefore please your Lordships to take the premises under your consideration; to grant warrant to and authorise the petitioner to act as interim clerk of the foresaid register of hornings, inhibitions, &c. and to exercise the whole other duties of the office, until a new commission from the Crown shall be presented to fill up the vacaney, and till the clerk to be nominated is thereupon admitted, or to do otherwise as to your Lordships shall seem just and necessary, for expediting the public business; and authorise this application and deliverance of the Court thereon, to be recorded in the minute-book of the said register of inhibitions, for the information of all concerned, and to dispense with the reading in the minute-book.

According to justice, &c.

(Signed) P. SMALL KEIR.

Edinburgh, 10th June 1812.—The Lords having considered the said petition, they hereby empower, authorise, and grant warrant to the petitioner, Robert Newbigging, to act as clerk to the general register of hornings, inhibitions, and others within mentioned, until a new commission from the Crown shall be presented, and till the clerk to be nominated shall thereupon be admitted; and appoint the said petition, and this deliverance thereupon, to be recorded in the books of sederunt and in the minute-book of said register of inhibitions, for the information of all concerned, and dispense with the minute-book.

(Signed) C. HOPE, I. P. D.

10th July 1812.

Appointment of Keeper of Register of Hornings, &c.

1812.

JOHN WAUCHOPE, Esquire, appointed clerk and keeper of the register of hornings and inhibitions, by commission under the Great Seal, dated 10th July 1812.


11th July 1812.

Act of Sederunt relative to giving in Papers in due time, and Levying of Fines and Amends.

THE Lords having taken into consideration, how essential it is for the lieges, in the due dispatch of business, and how necessary it is to enable the judges to administer justice with due deliberation and accuracy, that papers should be given in regularly at the times appointed; and, considering, that the regulations formerly made for ensuring this desirable end, and for levying fines and amands incurred for default in that respect, and otherwise, have failed:—

Do hereby enact and ordain, *1mo*, That every paper written or printed, given in to the Inner or Outer-House, in virtue of an interlocutor or interlocutors, ordering the same to be put in, on or before a day certain, under an amand, shall have written or printed, and prefixed thereto, along with the title of the paper, the interlocutor of the Court or of the Ordinary, and all renewals thereof, under which the paper is given in; and the collector of the fee fund, and the clerks of Court, are hereby prohibited to receive any paper which is presented to them without having such interlocutor, and all renewals thereof, prefixed thereto; and which interlocutor need not be again repeated.

2do, That every paper given into the Inner or Outer-House, shall further have prefixed thereto, the true date of the ingiving, of which the date of the marking by the collector of the fee-fund in his book, or on the paper itself, shall be the only competent evidence. And every paper, after being so marked by the collector, if intended for the Inner-House, shall be boxed in the time of Session, on the same day, or, at farthest, on the next box-day; and in vacation, papers marked on or before the first box-day shall be peremptorily boxed on that day; and those marked on or before the second box-day, shall in like manner be boxed on that day; and the collector of the fee-fund is hereby strictly prohibited and discharged from marking any paper, ex-

1812.  cept at his regular office-hours, or any paper which shall not appear to be complete.

3to, On the day preceding the first day of each Session, and on every Monday during the Session, the keepers of the Inner-House rolls shall make out a list of amands, incurred by default of papers, with the names of the agents; as affixed to the papers; and on the first day of each Session, and on every Tuesday morning during the Session, he shall present the same to the President of each Division, who shall authenticate the same by his signature; which list so signed shall be a sufficient warrant to the macer forthwith to levy the same from the agents by caption, if necessary.

4to, That the President of each Division shall then deliver such list to the macer by rotation, who shall, without delay, collect the same at his peril.

5to, That the macers shall keep to their own use, one-third of all amands and fines collected by them, to be divided equally among them all, and shall lodge the other two-thirds thereof in the Bank of Scotland, to be afterwards, by order of the Lord President, given to the treasurer of the Charity Work-house; and on every Tuesday morning before the new list is given in, the macer shall report the same to the President of each Division, who shall deliver the same to the clerk for preservation.

6to, That every agent shall pay the amand, as stated to be due by him on said list, in the first instance, without regard to any alleged mistake or excuse; but, if he thinks himself aggrieved, and that he has any good reason for having the amand remitted, he may present a note to the President of the Division, or the Ordinary, within twenty-four hours, for which no fee shall be exigible, on which he shall be heard at the Bar: And if the Court or Ordinary shall remit the amand or fine, the President or Ordinary shall mark the same on the note, which shall be given to the agent as a warrant for receiving back the same from the macer.

7mo, That a similar list of amands, incurred in cases before the Outer-House, shall be prepared by each Outer-House clerk or his assistants, and in the same way laid before each Ordinary for his signature at his regular morning hour, which the Ordinary in like manner shall sign, and deliver to the macer of the week to collect, who shall collect and account as above.

8vo, All persons on whom any part of the said duty is laid, shall be responsible to the Court for the due execution of the same.

9no, Reserving to the opposite party when the paper is not given in at the time appointed, to apply to the Court by a note, or the Ordinary by enrolment, either to advise the cause *ex parte*, or to renew the order under an additional amand, or to order payment of the whole expences, or part thereof, as the Court or Ordinary may judge best; reserving also to the Court itself, or Ordinary, in cases of extraordinary delay, to impose such additional

tional fines, as may seem proper, and if judged necessary, to advise the cause *ex parte*. 1812.

10mo, That the clerks of the Inner and Outer-House shall keep a record of all unconditional fines, and shall, every Monday during the Session, prepare a list thereof, to be in like manner laid before the Lord President or Ordinary, to be signed and collected as above.

11mo, That this act shall commence and be in force from and after the 11th day of July current, so as to be applied to all papers ordered to be given in by any interlocutor now current, or after the first box-day, and shall endure to the third sederunt day of January next; and ordain the same to be recorded in the books of sederunt, and to be printed and published in the usual form.

(Signed) C. HOPE, I. P. D.

19th November 1812.

Act of Sederunt relative to Accounts of Expences, Office of Auditor, and Increase of Fees of the Clerks of the Ordinary Lords, continued.

THE Lords declare, that the act of sederunt of the 6th February 1806, relative to accounts of expences, and the establishment of the office of auditor; and the act of Sederunt of the 4th day of July 1810, for increasing the fees of the clerks of the Ordinary Lords, shall both continue in force until the 19th day of November 1813.

1st December 1812.

Caution to Notaries Public.

IN a process before the First Division of the Court, (Robert Hamilton against James Brown), one of the parties having founded on a notorial instrument of intimation, requisition, and protest, the other party denied that any such intimation, requisition, and protest, had been used; it was admitted, both by the party and the notary, that, although these steps had been taken in 1805, no written schedule had been delivered by the procurator in presence of the notary, nor had the instrument been extended till 1810. The Lords, upon the 12th day of November 1812, found that the notary had acted improperly, *first*, in not leaving with the party against whom the protest was taken, a full schedule of the import of the protest; *secondly*, that he did wrong in attempting, after such a lapse of time, to extend the instrument of protest from the slender materials he appeared to have been possessed of, (being only some short notes on the back

1812. back of one of the papers connected with the business, and the recollection of himself and the witnesses), and without having a full schedule before him : But, in respect the notary appeared to have proceeded from no improper motives, the Lords appointed him only to be reprimanded from the chair, which was done accordingly, and ordered an entry to this effect to be made in the books of sederunt, as a caution to notaries to be more accurate in time coming.

19th December 1812.

Act of Sederunt increasing certain fees in the Bill-Chamber.

THE Lords of Council and Session having taken into their consideration, that, by the operation of certain late regulations in the Bill-Chamber, the fees and emoluments drawn by the depute-clerks, and assistant-clerks of that department, have been considerably reduced ; and also that, since the division of the Court, an additional attendance and responsibility in receiving caution, both in advocations and suspensions, have been imposed on Andrew Miller, depute-clerk of the bills, and that the emoluments of the above mentioned officers are inadequate to the duties required of them : Do hereby enact and ordain, that from and after the date hereof, the said Andrew Miller shall be authorized to exact an additional fee of two shillings and sixpence for each bond of caution, in advocations and suspensions, making the whole sum payable for the bond five shillings, besides the fee of two shillings and sixpence presently paid at lodging the bond, after the same has been executed ; which additional fee of two shillings and sixpence the said Andrew Miller is hereby authorized to apply to his own use alone. And the said Lords do further enact and ordain that, from and after the date hereof, James Mercer and John Watson, also depute-clerks to the bills, shall be authorized to exact an additional fee of three shillings and fourpence sterling on the first sheet, and one shilling and eightpence on each subsequent sheet of the record of abbreviates of adjudication, hornings against superiors, and signatures of adjudication ; an additional fee of two shillings and sixpence on every bill of loosing arrestments ; and an additional fee of one shilling and eightpence on every bond in law-borrows, these additional fees to be divided equally between them. And the said Lords do further enact and ordain that, from and after the date hereof, William Scott, assistant-clerk, shall be authorized to exact an additional fee of threepence on each single bill presented during office-hours, and of sixpence on every such bill presented after office-hours, one half of which additional fees the said William Scott is authorized to retain for his

his own use, and the other half to be equally divided between the said James Mercer and John Watson, declaring, that this act shall continue in force only during the pleasure of the Court; and appoint the same to be entered in the sederunt books, and printed and published in the usual form. 1813.

(Signed) C. HOPE, *I. P. D.*

14th January 1813.

Act of Sederunt relative to giving in of papers in due time and levying amands and fines, continued.

THE Lords renew the act of Sederunt of the 11th July 1812, relative to 'giving in of papers in due time, and the levying of fines and amands,' for the space of three years from this date, with the two following amendments upon the 1st and 5th sections thereof, viz.

1mo, That the order for prefixing copies of interlocutors upon all papers given in to the Inner and Outer House, as enjoined by section 1st of that act, shall extend to every paper appointed to be given in, on or before a day certain, whether under an amand or not.

2do, That in place of the macers lodging the two-thirds of the fines collected by them, in the Bank of Scotland, as directed by section 5th, they shall lodge the same in the hands of either of the keepers of the Inner-House Rolls.

(Signed) C. HOPE, *I. P. D.*

February 6. 1813.

Act of Sederunt anent the form of process continued.

THE Lords declare that the act of Sederunt of the 7th February 1810, 'anent the form of process in the Inner and 'Outer-House' shall continue in force till the 1st day of June next.

1813.

13th February 1813.

Act authorising Archibald Bell to change his name.

Unto the Right Honourable the Lords of Council and Session,

The Petition of Archibald Bell writer in Inverary, now Archibald Bell Maclachlan of Craiginterve ;

Humbly Sheweth,

THAT, upon the 30th day of June 1775, the petitioner was admitted a notary public, as a certificate herewith produced, under the hand of John Cameron, substitute clerk to the admission of notaries, more fully bears.

That, by a deed of entail executed by the deceased Colin MacLachlan of Craiginterve, dated the 12th day of May 1796, and duly recorded in the register of tailzies upon the 3d, and in the books of Council and Session upon the 18th days of July 1804, and in consequence of the decease of the prior heirs of tailzie nominated in the said deed, Mrs Lucy Maclachlan, the petitioner's wife, lately succeeded to the lands and estate of Craiginterve, conform to her service before the sheriff of Argyle, dated the 11th day of September 1811, duly retoured to Chancery, and charter expedite thereon, dated the 15th day of September last 1812.

By one of the clauses in said deed of entail, it is specially provided, that not only the heirs female, succeeding in terms thereof, but also the husbands of such heirs female, should be obliged constantly to use, bear, and retain in all time after their succession, the surname and designation of Maclachlan of Craiginterve, under the penalty of incurring a forfeiture of their rights to his estate.

That the petitioner, who is one of the procurators before the Sheriff, Commissary, and Admiralty Courts in Argyleshire, has been already authorised by the judges of these Courts to assume the surname of Maclachlan, in addition to his former name, in so far as related to any business wherein he might be concerned before these Courts. But as he humbly apprehends he cannot alter his subscription as a notary public, without your Lordships special authority, he is under the necessity of making this application to your Lordships for permission to assume the name of Maclachlan, for that and every other purpose.

May it therefore please your Lordships to authorise the petitioner to assume and use the surname of Maclachlan, in addition to his former name ; and (as he is informed your Lordships have been in use to do in similar cases), to ordain this,
petition

petition, and your Lordships deliverance thereon, to be inserted in the books of Sederunt. 1813.

According to justice, &c.

(Signed) WILLIAM MACDONALD.

Edinburgh, 13th February 1813.—The Lords having heard this petition, interpose their authority to the petitioner's change of surname from Archibald Bell to Archibald Bell Maclachlan; and appoint the said petition, with this deliverance thereon, to be inserted in the books of Sederunt.

(Signed) D. BOYLE, I. P. D.

16th February 1813.

Appointment of Solicitor-General.

ALEXANDER MACONOCHE, Esquire, appointed his Majesty's Solicitor-General, by commission under the Great Seal, 16th February 1813.

19th February 1813.

Appointment of Interim Sheriff-Depute of the county of Haddington.

Unto the Right Honourable the Lords of Council and Session,

The Petition of Henry Davidson, Sheriff-Clerk of the county of Haddington;

Humbly Sheweth,

THAT the office of Sheriff-depute of the county of Haddington has become vacant by the resignation of Alexander Maconochie, Esquire, now his Majesty's Solicitor-General of Scotland.

The evils and inconveniences which result to the public from the interruption of the exercise of this most important office, have induced your Lordships on many former occasions to interpose, by appointing interim Sheriffs-depute. The petitioner is encouraged by these precedents to make the present application.

May

1813. May it therefore please your Lordships to appoint a proper person to act as interim Sheriff-depute of the county of Haddington, with power to hold courts, to appoint substitutes, and exercise the other powers competent to the office, until a Sheriff-depute is appointed in the usual course, and to dispense with the minute-book.

According to justice, &c.

(Signed) ROBT. BRUCE, for Mr W. ERSKINE.

Edinburgh, 19th February 1813.—The Lords having heard and considered this petition, they authorise and appoint Mr Walter Scott, advocate, to exercise the office of Sheriff-depute of the county of Haddington, with power to hold courts, name substitutes, and exercise the other powers competent to the office, until a Sheriff-depute be appointed, in the usual course; and dispense with the reading hereof in the minute-book; the said Mr Walter Scott always qualifying in terms of law; and ordain this petition, and deliverance thereon, to be inserted in the books of Sederunt.

(Signed) C. HOPE, I. P. D.

25th February 1813.

Lord Pitmilley admitted.

DAVID MONYPENNY, Esquire, admitted a Judge of the Second Division by the title of 'Lord Pitmilley,' in place of Lord Woodhouselee, deceased, by letter from the Prince Regent, dated 1st February 1813.

12th May 1813.

Appointment of Clerk to the Bills.

JAMES HOPE, Esquire, W. S. appointed conjunct clerk of bills, by commission, dated 29th March 1813.

1st June 1813.

Act of Sederunt relative to the form of process, continued.

THE Lords declare that the act of Sederunt of the 7th February 1810, 'anent the form of process in the Inner and 'Outer-House,' shall continue in force till the 1st Sederunt day in January next.

8th

1813.

8th June 1813.

Lord Alloway admitted.

DAVID CATHCART, Esquire, admitted a Judge of the First Division by the title of 'Lord Alloway,' by letter from the Prince Regent, dated 14th April 1813.

Eod. Die.

Act of Sederunt relative to the mode of conducting business in the Outer-House, by the Permanent Lords Ordinary, &c.

THE Lords considering that there are now five Judges who have been admitted since the passing of the act of the 50th George III. whereby the provisions of that act for the establishment of Permanent Ordinaries, for performing the business of the Outer-House, are now to take effect; and having also taken into consideration the act lately passed for regulating the manner in which the business of the Outer-House shall be conducted by the said Permanent Ordinaries, do, in obedience to the said acts, enact and declare,—

1mo, That Lord Alloway, as the junior of the three Permanent Ordinaries of the First Division, shall officiate as Ordinary on the bills during the time of Session: And, upon all bills presented to him, the agent shall mark on the bill the Division to which the cause is to belong, in case of reclaiming from the Ordinary on the bills; and as Ordinary to all cases of sequestration or bankruptcy, and in such other matters as either Division shall see proper to remit to him; and also shall be the Ordinary to whom the Court, as the commission for plantation of kirks and valuation of teinds, shall make remits: And that for hearing such causes as may come before him, he shall sit in the Outer-House, on the days, and in the order set forth in the schedule A, subscribed by the Lord President, of this date, as relative hereto; without prejudice to his asking and obtaining leave to sit at other times, when necessary.

2do, That, in terms of the said late act, Lord Balgray shall be the sole Ordinary for this week in the Outer-House, for hearing and determining causes in the rolls of suspensions, advocations, regulations, and ordinary actions already enrolled for the Ordinary of the First Division: And the Lords declare and enact, that the

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suspensions,

1813. suspensions, advocations, regulations, and ordinary actions enrolled, for the Ordinary of the Second Division this week, shall stand over, and, without further expence to the parties, be made a part of the roll for Lord Craigie, who, in terms of the said late act, will be the Ordinary for next week in the Outer-House: But declaring, that if there shall be any adjudications or other processes in the roll for the Ordinary of the Second Division for this week, in which delay would be prejudicial, it shall be in the power of the party apprehending injury from such delay to apply by note to the Lord President, free of all fees whatever, for a warrant from the First Division to enrol such adjudication or other process before Lord Balgray; which warrant the First Division is hereby authorised to grant.

3^{to}, And whereas it is enacted by the said late act, that all processes and proceedings, at present depending before any of the thirteen Lords Ordinary, shall be carried on and brought to a conclusion before such Ordinary; and that such of the said thirteen Ordinaries, as are in future to be, in other respects, exclusively attached to the Inner-House, cannot conveniently go to the Outer-House to hear causes in the forenoon, when the Inner-House is sitting; the Lords declare and enact, that the morning hours shall be appropriated to such Inner-House Judges, until they shall have respectively brought to a conclusion the business now depending before them, and that according to the order contained in schedule B. subscribed by the Lord President, of this date, as relative hereto.

4^{to}, That for the further hearing and determining the causes before them, the four Permanent Ordinaries for Outer-House business, and the *junior* Ordinary for teinds, &c. shall sit in the Outer-House in the forenoons, after the Inner-House is met, on the days, and in the order contained in the foresaid schedule A.; which arrangement and rotation for four weeks is to be repeated *toties quoties*, unless deranged by unavoidable cases; when the Lords, in terms of said late act, will make a special order for remedying such derangement.

5^{to}, Although the new arrangement is given out, so as to include the present week, yet, as many of the hand rolls must be already made up, and there may not be time for the agents to become acquainted with the new arrangement, so as to make corresponding enrolments, the Lords declare and enact, that, for the current week, the morning hours and hand rolls shall go on as at present, and the new arrangement, in all its parts, shall commence on Tuesday next the 15th.

6^{to}, The Lords ordain and enact, that the whole printed papers for both Divisions of the Inner-House shall be boxed as at present for all the Judges, as well of the Outer as of the Inner-House.

7^{mo}, As soon as any of the Inner-House Judges can spare his morning hour, the same shall be allotted to one of the Permanent

manent Ordinaries in the order of seniority, if he shall find it necessary to apply for it. 1813.

8vo, This act to be in force till the third sederunt day of January next.

(Signed) C. HOPE, I. P. D.

Schedule A.

PERMANENT ORDINARIES.

First Week, 8th June 1813.

Outer-House,—LORD BALGRAY.

Tuesday Forenoon,
Lords Craigie and Gillies.

Wednesday,
— Craigie and Gillies.

Thursday,
— Craigie and Gillies.

Friday,
— Pitmilley and Alloway.

Saturday,
— Pitmilley and Alloway.

Second Week, 15th June.

Outer-House,—LORD CRAIGIE.

Tuesday,
Lords Balgray and Pitmilley.

Wednesday,
— Balgray and Pitmilley.

Thursday,
— Balgray and Pitmilley.

Friday,
— Gillies and Alloway.

Saturday,
— Gillies and Alloway.

Third Week, 22d June 1813.

Outer-House,—LORD GILLIES.

Tuesday,
Lords Craigie and Pitmilley.

Wednesday,

ACTS OF SEDERUNT

1813.



Wednesday,
Lords Craigie and Pitmilley.
Thursday,
— Craigie and Pitmilley.
Friday,
— Balgray and Alloway.
Saturday,
— Balgray and Alloway.

Fourth Week, 29th June.

Outer-House,—LORD PITMILLY.

Tuesday,
Lords Gillies and Balgray.
Wednesday,
— Gillies and Balgray.
Thursday,
— Gillies and Balgray.
Friday,
— Craigie and Alloway.
Saturday,
— Craigie and Alloway.

And so on to be repeated.

(Signed) C. HOPE, I. P. D.

Schedule B.

MORNING HOURS.

Lords Craig,	<i>Tuesday,</i> Glenlee,	Meadowbank.
— Balmuto,	<i>Wednesday,</i> Hermant,	Bannatyne.
— Robertson,	<i>Thursday,</i> Succoth,	Glenlee.
— Meadowbank,	<i>Friday,</i> Balmuto,	Hermant.
— Bannatyne,	<i>Saturday,</i> Robertson,	Succoth.

(Signed) C. HOPE, I. P. D.

10th June 1813

1813.

Act of Sederunt appointing the Lord Ordinary for the Week, to be the Ordinary on Oaths and Witnesses.

THE Court this day *resolved* that, in future, the Lord Ordinary for the week shall also officiate as Ordinary for oaths and witnesses; and authorise the keeper of the Outer-House rolls to act accordingly.

(Signed) C. HOPE, I. P. D.

2d July 1813.

Act of Sederunt authorizing the Lords Ordinary to call their Hand Rolls during the last days of the Session.

THE Lords considering that, by the present practice of not allowing the Ordinaries to call their hand-rolls during the last days of the Session, the Lords Ordinary would have no business in Court at all during the said periods, and the whole Ordinaries are interrupted in their business, do hereby enact and declare that, in future, the Lords Ordinary shall have power and authority to put out, and call their hand-rolls during the last days of the Session, the same as at other times, the said Lords always exercising their sound discretion in superseding extract till the first box-day of the vacation, where it shall appear to be expedient or necessary.

(Signed) C. HOPE, I. P. D.

Eodem Die

Act of Sederunt, increasing the fees of the Keeper of the Outer-House Rolls.

THE Lords having taken into consideration a memorial for Mr Kirkpatrick Williamson Burnett, keeper of the Outer-House rolls, in which he points out the loss he has sustained by the operation of the small debt act, and of the late act of Parliament, restricting the right of advocating inferior court processes to this Court, till after final interlocutors; and conceiving it to be reasonable that the said keeper of the Outer-House rolls should be indemnified of his said losses, have resolved, and do hereby enact and declare, that, from and after the 12th day of July current, the said keeper shall be entitled to charge and exact for his

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1813. own use, one shilling sterling on each advocacy, suspension, regulation, and ordinary action enrolled in the Outer-House rolls, in addition to the fees which he presently enjoys.

(Signed) C. HOPE, *I. P. D.*

9th July 1813.

Act of Sederunt in favour of Depute-clerks assistants
continued

THE Court renewed till the 19th November next, the act of Sederunt, dated the 11th July 1811, authorizing the assistant clerks in the Outer-House to receive additional fees.

16th November 1813.

Appointment of interim Sheriff-Depute of Berwickshire.

Unto the Right Honourable the Lords of Council and Session,

The Petition of James Bell, Sheriff-Clerk of Berwickshire ;

Humbly Sheweth,

THAT, from the recent appointment of Mr David Douglas to be one of your Lordships number, the office of sheriff of the county of Berwick is now vacant. This is attended with great loss and inconvenience, both to the petitioner, and to the county at large, as there are several causes now depending before that Judge, which, from their nature, require dispatch. In these circumstances, the present application is made to your Lordships for the appointment of an interim sheriff, until the office shall be filled up by the Crown. It is thought unnecessary to refer your Lordships to any precedents, as it is believed that instances of similar applications have of late been very frequent.

May it therefore please your Lordships to appoint a proper person to act as interim sheriff-depute of the county of Berwick, with powers to hold courts, and exercise the other powers competent to the office, until a sheriff-depute be appointed in the usual course, and to dispense with the Minute-Book.

According to justice, &c.

(Signed) ROBT. BRUCE.

Edinburgh,

Edinburgh, 16th November 1813.—The Lords having heard this petition, they authorize and empower Mr Walter Scott, Advocate, to exercise the office of sheriff-depute for the county of Berwick, until a sheriff-depute for the said county shall be nominated by the Crown, and he be superseded; and dispense with the Minute-Book; and ordain this warrant to be insert in the books of Sederunt. 1813.

(Signed) C. HOPE, *I. P. D.*

16th November 1813.

Acts of Sederunt in favour of Assistant Clerks in the Outer-House,—Accounts of Expences,—Auditor,—and Ordinary Lords Clerks Fees continued.

THIS day the Lords renewed, during the pleasure of the Court, the three following acts of Sederunt, viz.

The act of Sederunt of the 11th day of July 1811, 'authorizing the assistant-clerks in the Outer-House to receive additional fees.'

The act of Sederunt of the 6th day of February 1806, 'relative to accounts of expences, and establishing the office of auditor of court;' and

The act of Sederunt of the 4th day of July 1810, 'increasing the fees of the clerks of the Ordinary Lords.'

(Signed) C. HOPE, *I. P. D.*

20th November 1813.

Lord Reston Admitted.

DAVID DOUGLAS, Esquire, admitted a Judge of First Division, by the title of 'Lord Reston,' in place of Lord Craig, deceased, by letter from Prince Regent, dated 7th September 1813.

23d November 1813.

Act of Sederunt remitting the causes now depending before Lord Balgray to Lord Alloway, and those before Lord Alloway to Lord Reston.

IN virtue of the powers vested in the Court by the 11th and 12th sections of the 53d George III. chapter 64, the Lords declare and enact, that all remits and other causes and processes presently

1813. presently depending before Lord Alloway, as junior Ordinary of the First Division, shall be, and they are hereby remitted to Lord Reston, now the junior Ordinary.

And that all processes now depending before Lord Balgray be in like manner remitted to Lord Alloway, who has become one of the four permanent Ordinaries for the Outer-House, by the removal of Lord Balgray to the Inner-House, all in consequence of the death of Lord Craig.

Provided, that either of the parties, or any party who has been allowed to appear for their interest, shall enrol the processes before Lords Alloway and Reston respectively, within three months from this date.

And the Lords declare that, after the lapse of said three months, remits shall not be made, except on petition, as now practised.

(Signed) C. HOPE, I. P. D.

11th December 1813.

Act declaring New Jail of Glasgow a legal Prison.

Unto the Right Honourable the Lords of Council and Session,

The Petition of the Lord Provost, Magistrates, and Council of the City of Glasgow ;

Humbly Sheweth,

THAT, although among the best of the old burgh jails in Scotland, the tolbooth of Glasgow has for many years been very inadequate to the proper accommodation of the prisoners confined in it, partly owing to the great increase of population, and the great extension of trade and manufactures, and partly to the jail having come to be in use in the course of the last century, not merely as a local prison for the purposes of the burgh, but as a sort of general district jail for the West of Scotland. In these circumstances, the petitioners humbly conceived that they were justly entitled to some aid from the adjacent counties, and particularly from the county of Lanark, towards the erection of a new court-house and prison. But as their applications on this subject were not attended with success, they resolved some years ago to endeavour to accomplish the object by means of the funds under their own immediate management.

Before the new buildings were begun, a petition was presented to the Court of Justiciary, praying their Lordships to sanction the undertaking, pointing out the proposed situation, and referring to the plans which had been procured. But their Lordships, in considering this petition, deemed it unnecessary to give any formal deliverance thereon until the buildings were finished, and
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merely instructed the Judges on the Circuit to take a view of the situation, and to inspect the plans. This was accordingly done, and different improvements made. 1818.

A petition to a similar effect was also presented about the same time to the Lord Ordinary officiating in the Bill-Chamber, and to several others of your Lordships during the vacation ; but, as it appeared that any application to this Court to declare the new jail a legal prison for debtors, until the building was finished, would be premature, no formal petition was lodged at that time.

The Court halls, public offices, and record rooms, have now been finished and fitted up ; and the apartments in the jail, destined for the confinement of debtors, are now ready for the reception of the prisoners ; but, before removing the prisoners, the petitioners are desirous to have the authority of your Lordships.

The north and south fronts of the jail, which have been allotted for the confinement of debtors, consist of four stories. Each floor contains six apartments for individual debtors, and a day-room for the six debtors confined in that floor, with a gallery in which they may be permitted to walk ; and each apartment has a window and a fire-place.

Under a remit from the Court of Justiciary to the judges upon the Western Circuit, the Lord Justice-Clerk and the Lord Succoth, in the month of October last, inspected the part of the new jail destined for the confinement of criminal prisoners, and, at the same time, their Lordships also inspected the apartments allotted for the confinement of debtors, and expressed their satisfaction therewith.

May it therefore please your Lordships to receive the report of the judges before named upon the said matter ; to find and declare the parts of the said new buildings destined for the confinement of debtors a legal prison, and to authorize the removal of the debtors from the old to the new jail of Glasgow.

According to justice, &c.

(Signed) JOHN CONNELL.

Edinburgh, 26th November 1818.—The Lords having heard this petition, before further procedure, appoint the petitioners to exhibit certificates from medical persons for the information of the Court, with regard to the salubrity of the apartments intended for the confinement of debtors in point of ventilation and comfort, and fitness for the reception of prisoners, in their present state.

(Signed) D. BOYLE, *I. P. D.*

Glasgow, December 3. 1818.—This day, between one and three o'clock, we carefully examined every part of the new prison here.

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1813. Though its site be not high, the building is elevated above the bed of the river far enough to secure it from risk in any flood; and, as it is open all around, complete ventilation is perfectly insured. In the inner-courts we found drains so numerous, and so judiciously placed, as to carry off very rapidly all surface water and night soil.

We then examined the apartments for debtors, with the gallery, closets, water closets, and day-rooms attached to each ward, and we found the whole most judiciously arranged, and most substantially finished, for the purpose of securing to the confined debtors, health, cleanliness, and every comfort compatible with their situation.

We inspected the floor, the walls, and the roof of each room; but in none could we perceive the slightest appearance of damp. As the day was raw and cloudy, a gusty thaw having succeeded an intense frost, we were induced to examine with particular care the apartments on the ground floor, as also the closets, which have no opening but that by which they communicate with another apartment, and we found all these as free from damp as the rest.

We next tried the chimnies by kindling a fire in one apartment of each floor; and we found the flues so well formed, that though they had never been heated, and though the fuel was laid on the hearth, the fire burnt rapidly, without the slightest appearance of smoke in the apartment. We tried one of the day-rooms with a similar result.

It is, therefore, our firm belief that debtors may be immediately confined in this prison, not only without risk to their health, but with better accommodation and greater chance of comfort than can be found in any other prison which we have had occasion to examine.

All these things we certify on soul and conscience.

(Signed)

ROBERT CLEGHORN, *M. D.*

T. BROWN, *Surgeon.*

Edinburgh, 11th December 1813.—The Lords having resumed consideration of this petition, and having heard from the Lord Justice-Clerk a verbal report of the favourable opinion formed by his Lordship and Lord Succoth, in the course of their inspection of the New Jail, with a view to the part destined for the confinement of criminal prisoners; and having also considered the certificate of Dr Cleghorn and Mr Brown, now produced; find and declare the parts of the new buildings destined for the confinement of debtors a legal prison; and authorise the removal of the debtors from the Old to the New Jail of Glasgow, and decern accordingly; and ordain this petition, with this deliverance of the Court, and the certificate above mentioned, to be recorded in the books of Sederunt.

(Signed)

D. BOYLE, *I. P. D.*

18th December 1813.

Act of Sederunt relative to Reclaiming Days during the Christmas Recess. 1813.

THE Lords of Council and Session, having taken into their consideration, that, by the act of Sederunt of the 21st of December 1811, the reclaiming days are declared to run in the Christmas Recess, and interlocutors to become final on the box-day in the recess, unless a representation or petition shall then be given in, which regulation has been found to be inexpedient, do, therefore, hereby recall the said act of Sederunt, and declare that, in time coming, the reclaiming days against both Inner and Outer-House interlocutors shall not run during the Christmas recess, nor expire until the first sederunt day of the Court after the recess; but all interlocutors shall on that day become final, unless a representation or petition shall then be given in, without prejudice to parties taking out extracts according to the existing regulations. And appoint this act to be inserted in the books of Sederunt, and printed and published in common form.

(Signed) C. HOPE, I. P. D.

11th January 1814.

Acts of Sederunt relative to form of process, and mode of conducting business by Permanent Ordinaries, continued.

THE Lords renew, during the pleasure of the Court, the act of Sederunt of the 7th day of February 1810, (prorogated on the first day of June last) 'anent the form of process in the Inner and Outer-House;' and,

The act of Sederunt, dated the 8th day of June last, 'relative to the mode of conducting business in the Outer-House by the Permanent Ordinaries,' &c.

(Signed) C. HOPE, I. P. D.

15th January 1814.

Act of Sederunt relative to the mode of conducting business in the Outer-House, by Permanent Lords Ordinary, &c.

THE Lords of Council and Session taking into their consideration, that, by the act of Sederunt of the 8th June 1813, certain regulations are established, whereby the Lords Ordinary

now.

1814. now attached to the Inner-House, (but who still have Outer-House processes depending before them) and also the Permanent Ordinaries, are authorized to call and hear their causes according to the rotation prescribed in two schedules annexed to the said act; and that, from the changes which have since taken place, a new arrangement of that rotation becomes necessary, and may now be advantageously made for expediting the Outer-House procedure, by a renewal of the said act of Sederunt, adapted to the present state of the business of the Court, and with such alterations and amendments as experience has suggested, do therefore of new enact and declare, *1mo*, That Lord Reston, now the *junior* of the three Permanent Ordinaries of the First Division, and after his removal from the situation of *junior* Ordinary, the Judge who shall succeed him as *junior* in that Division, shall officiate and carry on the business appropriated to the said *junior* Judge by section 1st of that act, but shall now sit in the Outer-House on the days, and in the order set forth in the schedule A, hereunto annexed, which is subscribed by the Lord President as relative hereto, without prejudice to the said *junior* Judge asking and obtaining leave to sit at other times when necessary.

2do, And whereas, from the morning hour held by the late Lord Craig, being now open, and the Outer-House business formerly depending before several of the Ordinary Judges, who are in other respects attached to the Inner-House, being now so far exhausted as to require a less share of the morning hours than is appropriated for that purpose by the former act, and it will prove a great accommodation to the Permanent Ordinaries, and forward the business in dependence before them, were they authorized to occupy the morning hours now vacant, on those days of the week when they are otherwise to sit in the Outer-House in the forenoon: The Lords do therefore, in order to accomplish these objects, enact and declare that the morning hours shall in future be appropriated to these several Judges, according to the order set down in the new schedule B, hereunto annexed, which is also subscribed by the Lord President as relative hereto.

3tio, That the arrangements made by section 4th of the former act shall be continued, with this difference, that schedule A, hereunto annexed, shall now be substituted for that of the said former act. And the regulations specified in sections 6th and 7th of the former act are hereby renewed.

4to, *Lastly*, This act shall continue in force during the pleasure of the Court. And the Lords appoint the same to be printed and published in the usual form.

(Signed)

C. HOPE, *I. P. D.*

Schedule A.

PERMANENT ORDINARIES.

First Week, Tuesday, 18th January 1814.

Outer-House,—LORD GILLIES.

Tuesday Forenoon,
Lords Alloway and Craigie.
Wednesday,
— Alloway and Craigie.
Thursday,
— Alloway and Craigie.
Friday,
— Pitmilley and Reston.
Saturday,
— Pitmilley and Reston.

Second Week, 25th January.

Outer-House,—LORD PITMILLY.

Tuesday,
Lords Gillies and Craigie.
Wednesday,
— Gillies and Craigie.
Thursday,
— Gillies and Craigie.
Friday,
— Alloway and Reston.
Saturday,
— Alloway and Reston.

Third Week, Tuesday, 1st February 1814.

Outer-House,—LORD ALLOWAY.

Tuesday Forenoon,
Lords Gillies and Pitmilley.
Wednesday,
— Gillies and Pitmilley.
Thursday,
— Gillies and Pitmilley.
Friday,
— Craigie and Reston.
Saturday,
— Craigie and Reston.

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Fourth Week, Tuesday, 8th February.

Outer-House,—LORD CRAIGIE.

Tuesday,
Lords Alloway and Pitmilley.*Wednesday,*
— Alloway and Pitmilley.*Thursday,*
— Alloway and Pitmilley.*Friday,*
— Gillies and Reston.*Saturday,*
— Gillies and Reston.

Bills,—LORD RESTON.

And so on to be repeated.

(Signed) C. HOPE, I. P. D.

Schedule B.

MORNING HOURS.

Lords Glenlee,	<i>Tuesday,</i> Meadowbank,	Balmuto.
— Hermand,	<i>Wednesday,</i> Bannatyne,	Permanent Ordinary in his 2d week.
— Robertson,	<i>Thursday,</i> Succoth,	Permanent Ordinary in his 3d week.
— Glenlee,	<i>Friday,</i> Meadowbank,	Permanent Ordinary in his 4th week.
— Bannatyne,	<i>Saturday,</i> Robertson,	Permanent Ordinary of the week.

(Signed) C. HOPE, I. P. D.

3d February 1814. 1814.

Appointment of Interim Commissary of Hamilton and Campsie.

Unto the Right Honourable the Lords of Council and Session,

The Petition of Mathew Taylor in Glasgow, Clerk of the Commissariat of Hamilton and Campsie ;

Humbly Sheweth,

THAT William Rankine, Esquire, writer in Hamilton, late commissary of the said Commissariat, died on the 27th of January last ; and as there are a number of actions and processes depending, and others ready to be commenced before the court, and confirmations and registrations connected therewith, and other urgent business occurring, which cannot be proceeded in until an interim commissary is appointed by your Lordships to do the duty of the office until his Majesty's nomination may appear ; and as delay may be prejudicial to the lieges, and as Thomas Falconer, Esquire, writer in Glasgow, has acted as commissary depute of the said Commissariat, since the 2d of March 1809, with universal satisfaction and approbation,

May it therefore please your Lordships to appoint and authorize the said Thomas Falconer to act as interim commissary of Hamilton and Campsie, with the usual powers and emoluments, until his Majesty's nomination shall appear, and to dispense with the reading in the minute-book.

According to justice, &c.

(Signed) JOHN JARDINE.

Edinburgh, February 3. 1814.—The Lords having heard this petition, they appoint and authorize the said Thomas Falconer to exercise the office of commissary of Hamilton and Campsie, in place of the said deceased William Rankine, with power to him to hold courts in the ordinary form, to issue edicts and other writs usual, to confirm testaments, and to hear and decide in all causes consistorial and competent to the said office and jurisdiction thereof, as freely in all respects as any commissary of the said Commissariat, and that ay and until a commissary shall be appointed by his Majesty for the said Commissariat, or until further orders from this Court ; and appoint this petition and deliverance to be inserted in the books of sederant, and dispense with the minute-book.

(Signed) C. HOPE, I. P. D.

1814.

16th February 1814.

Procedure relative to, and Censure on William Jameson, Writer to the Signet.

THE Lord Reston, Ordinary on the Bills, this day reported to the Court, that on the 7th current, a bill of suspension and interdict for Margaret Bunton was presented to him, in which the facts were so stated that it was impossible for him to refuse it *de plano*; and yet that the facts carried such an air of improbability that he thought it right to annex the following note to his interlocutor.—‘(Note.) Although the bill is so expressed as to require an answer, there is a vagueness in the statement, which leads to a doubt of its accuracy; and the suspender’s agent, from regard to his own character, as well as the interest of his client, should put her on her guard, that she will be subjected in the expence of the answers, if the complaint be groundless.’

That in the course of the same afternoon, his Lordship had received a letter, bearing to be signed by William Jameson, writer to the signet, the agent who presented the bill of suspension, of which letter the following is a copy:—

‘The Honourable Lord Reston.

‘MY LORD RESTON,—I have this moment perused your note on the bill of suspension for Margaret Bunton.

‘I am not in the habit of receiving these communications, nor shall I ever hold any person to be umpire of my character, or allow him to dictate to me, in *that respect*, either professionally, or in what regards the ordinary occurrences of life.

‘If the statement in that bill was incorrect, or out of form, your Lordship *was bound to refuse it*. If it is vague in its information, it is not my fault. I wrote to-day to the parties; and because they refused me an answer, I took my information in the way my client could give it to me.

‘But, I again repeat it, and I desire that it be recollected by your Lordship in time to come, in all matters, at least, where I am concerned, that I conceive our several duties to be wholly independent; and that your Lordship does not feel a fairer pride in the correct discharge of your duties than I do of mine. I am, My Lord, your Lordship’s most obedient humble servant,

(Signed) ‘W^m. JAMESON, W. S.’

Edinburgh, 7th February 1814.

The Lords having considered the above representation and letter, order that Mr Jameson be summoned by a macer to attend

tend at the Bar to-morrow morning, at half past ten o'clock ; and 1814.
that the clerk do furnish him with a copy of the said letter (in case he has not preserved a copy), in order that he may be prepared to explain, or vindicate his conduct.

17th February 1814.

In obedience to the order of yesterday, William Jameson, writer to the signet, did this day attend at the Bar, along with Mr John Clerk, as his counsel ; and Mr Jameson having been asked by the Lord President, whether he had any thing to offer to the Court on the subject of that letter, Mr John Clerk stated to the Court in substance, that his client could not, and would not, deny that he did write and send said letter : That he was now deeply sensible of the very improper and disrespectful terms in which it is conceived : That he had nothing to offer in excuse, but that he had written it in a moment of irritation produced by a misconception of the import of the Lord Ordinary's note : That he is extremely sorry for his offence, and most humbly throws himself on the mercy of the Court.

The Lords, in consideration of the contrition shown by the said William Jameson, and the apology now offered by him through his counsel, abstain from inflicting any punishment on him ; and ordain that he be discharged on receiving a censure from the chair ; and he was accordingly reprimanded in suitable terms by the Lord President, and dismissed from the bar upon paying the macer's fees.

March 11. 1814.

Act of Sederunt relative to the mode of Boxing Printed Papers to the Court, &c. and for Collecting the Fees, and Managing the Fund of the Lords Clerks, &c.

WHEREAS much irregularity takes place in the boxing of printed papers which are to be advised by the Judges sitting in the Inner-House, and that the printing and transmitting the suspensions and advocations, summonses and defences, to the Lord Ordinary officiating in the Outer-House, as required by the forms, are neglected and deferred, so that the benefit expected from that measure is in a great degree lost ; and that the verbal injunctions given from the Chair of the Court, and repeated notices affixed to the walls, for the more correct boxing of papers, and other notifications to the same purpose, have proved ineffectual.

And whereas the fees payable to the Lords Clerks have been rendered a common fund of division among them, by the statute of the fiftieth of his present Majesty, chapter 112, upon the institution

1814. tion of Permanent Lords Ordinary taking place; but that no provision is made by the said statute, directing how the fund so rendered common, shall be levied, preserved, and distributed.

And whereas, in consequence of the change which has recently taken place, in the form of proceedings in the Outer-House, where causes are now chiefly discussed by means of argument at the Bar, while reiterated reviews by written pleadings are circumscribed within narrow limits, the present fees payable to the Lords Clerks have suffered a very considerable diminution.

And, whereas the Lords are informed that the office No. 9, in the Register House is not at present occupied, and, without any inconvenience, may at present be employed for boxing the printed papers destined for the consideration of the Court, and for other similar purposes.

Therefore, in order to make some provision suited to these circumstances, till a more thorough consideration of them can be taken, the Lords enact and declare that, upon the rising of the Court for the ensuing vacation, the boxes of the thirteen ordinary Judges, together with those of other Judges or officers, in which papers ought to be boxed (the boxes of the Lord President and Lord Justice-Clerk being always excepted), shall be removed to the said office of the Register House; and that all boxing of printed papers for the consideration of the said Judges, shall thereafter be competent only in the said office; nor shall any other delivery of any printed paper to the said Judges, or to any person on their behalf, be exempt from the consequences of failure to box the same, as required by the acts of Sederunt: But it shall be deemed sufficient with respect to those here boxed, that the papers be lodged therein during the hours of attendance of the collector of the fee fund in the said office, upon the day when such boxing ought to take place.

And they further enact and ordain, that one or more of the clerks of the eight ordinary Inner-House Judges, as may be arranged among them by election or rotation, shall attend in the said office on all box-days, during the hours when the collector of the fee fund gives attendance in his office, previous to three o'clock afternoon; and that every paper, which ought regularly to be boxed in the boxes of all the Judges, shall pay a fee of three shillings sterling, on being admitted to be so boxed, to the Lords Clerk or Clerks officiating in the office at the time, who shall enter the same in a book or books to be there kept, and also make a jotting of the payment on the copy of the paper boxed for the senior Judge of the Division to which it is destined; and the clerk or clerks, so officiating, shall be answerable that a copy of each paper, on which the said fee is thus paid, shall be duly deposited in the boxes lodged in the said office, as authorised and ordained by former acts of Sederunt.

And it is further enacted, that the copies of suspensions and advocations, which are ordained to be printed and laid before the Lord Ordinary in the Outer-House, before whom they are enrolled,

rolled, shall be deposited in his Lordship's box in the said office, 1814. on Saturday previous to the Tuesday when the same ought to be called before him for discussion; and, at the same time, there shall be paid to the Lords Clerks a fee of one shilling sterling, which payment shall be entered in the book kept in said office; and a jotting of the same shall also be made by the said clerk upon the paper deposited in the box, otherwise the enrolment shall be void; or, if the failure arises from the neglect of the party who has not obtained the enrolment, then the Lord Ordinary shall award a suitable indemnification; and, in like manner, the copies of the summonses and defences appointed to be printed, and laid before the said Lord Ordinary in the Outer-House, shall be deposited in his Lordship's box in the said office, on Tuesday before the days when the causes are enrolled for hearing; and a fee of one shilling sterling shall, in like manner, be paid, entered, and jotted, otherwise the enrolment shall be void; and, if it happens that a printed copy of the summons is boxed, and defences are omitted to be printed and boxed, the Ordinary officiating shall proceed as if the defender had failed to lodge defences, and shall not repon the party till he indemnifies the expence occasioned by his neglect.

And whereas, by act of Sederunt of the 1st August 1789, the fees payable to the Lords Clerks, at the ingiving of papers in the Outer-House processes, are ordained to be paid at the said ingiving, and that it is proper that this act be now enforced, in order that the fund rendered common be made effectual; it is therefore enacted, that all fees of this description shall be paid to the collector officiating at said office, and shall be entered in his book, and also jotted on the paper given in, or inventory thereof, before it is laid before the Lord Ordinary, who is hereby prohibited from writing thereon, unless such jotting be found at the advising.

And, it is enacted and declared, that the fees thus received at said office shall be regularly paid in at the expiry of every fortnight, or on the first lawful day thereafter, by the clerk or clerks who officiated during said fortnight, to an account of deposit to be opened with the house of Sir William Forbes, James Hunter, and Company, in the name of such of the thirteen Lords Clerks as they shall elect for the purpose, and that on pain of deprivation.

And in order that the fund, since the institution of permanent Lords Ordinary took effect, may be correctly ascertained, and properly distributed, the Lords ordain the said thirteen clerks to elect a committee of their number, upon the rising of the present session, and to give in to the said committee a faithful and accurate statement of their receipts of fees, of all descriptions, from the said institution having taken effect, down to the close of the present session: And the Lords ordain the said committee to prepare a general state of the said receipts, together with a scheme for the general distribution thereof; and to lay copies of the

1814. the state and scheme before the Lord President and the Lord Justice-Clerk, who, or either of them, are hereby authorised to make such order for methodizing, correcting, and carrying into execution, the said state and scheme of distribution, as may appear to them, or either of them, proper and adequate for the purpose: And it is hereby enacted that a similar mode of ascertaining the amount of the fees, and distributing the same, shall be adopted during the first week after the close of the summer session, and after the commencement of the Christmas recess, till a different arrangement is adopted: And, in order that the separate receipts of the several Lords clerks may correctly appear in time to come, they are hereby enjoined to enter as diets in their several books of enrolment all those proceedings on which fees are at present chargeable, and to exact the same to the amount authorised by the several acts of sederunt, as charges due on occasion of the procedure to take place at said diets.

And whereas, by the act of sederunt of 9th June 1803, the charitable fund raised by the contribution of the said clerks, and destined for the relief of their families in particular circumstances, is recognized as a proper measure, and a fee of sixpence on the first enrolment of every cause in the Outer-House, and a like fee on presenting of every bill of suspension and advocacy, is ordered to be levied by the keeper of the Outer-House rolls, and by the clerks of the Bills respectively; and, when not required for the support of the clerk of the senior Lord Ordinary exempted from Outer-House duties on account of particular circumstances, 'shall be accounted for by the said collectors of them to the persons who act as trustees upon the common fund already belonging to the said clerks, and shall be applied, from time to time, under the direction of a committee of the said Lords, to be appointed by the Court, as occasion may require.' And whereas this fund, so far as arisen since the 12th day of July last, has, in consequence of the death of Lord Craig, remained in the hands of the collector, it is therefore enacted and ordered, that, in conformity to the said act of sederunt, the said duties shall be paid over to the manager or managers of the said charitable fund, on their receipt for the same, till further order.

And the said clerks are enjoined to provide, by an arrangement among themselves, that the requisite attendance and attention be given to transact the business elsewhere, incumbent on the clerk or clerks officiating in the Register House, so that no neglect or just complaints on this account be occasioned.

And it is further enacted, that causes admitted to the benefit of the poor's roll remain on their former footing, as to the exemption of paupers from the fees of Court.

And it is also declared, that those acts of sederunt, by which the fees that are in use to be paid were imposed, shall remain in force during the operation of the present act; and that this act shall continue in force only till further order.

(Signed) C. HOPE, I. P. D.

9th July 1814.

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Appointment of interim Commissary of Stirling.

*Unto the Right Honourable the Lords of Council and Session,**The Petition of Andrew Hutton, Commissary Clerk of the Commissariat of Stirling ;**Humbly Sheweth,*

THAT, in consequence of the resignation of Mr John Burn, late commissary depute of the said commissariat of Stirling, there is a vacancy in the said office of commissary depute, to the great inconvenience of the lieges : That various applications have been made to Mr Duncan Campbell, principal commissary, to appoint another depute in place of Mr Burn, but without any answer having been returned, or attention paid to these requisitions. The petitioner is therefore advised to prefer the present application to your Lordships.

May it therefore please your Lordships to appoint another person to exercise the office of commissary depute of the said commissariat of Stirling, until some person shall be named and receive a commission from the said Mr Duncan Campbell.

According to justice, &c.

(Signed) JOHN JARDINE.

Edinburgh, 9th July 1814.—The Lords having resumed consideration of, and advised this petition, with answers, they suspend the respondent, Duncan Campbell, from the office of principal commissary of the commissariat of Stirling ; and nominate and appoint James Wright, writer in Stirling, to be commissary principal of the said commissariat *ad interim*, with the usual powers ; and appoint this appointment to be marked in the sederunt book.

(Signed) C. HOPE, I. P. D.

9th August 1814.

1814.

Appointment of interim Commissary Clerk of Peebles.

Unto the Right Honourable the Lord Ordinary officiating on the Bills,

The Petition of John Murray Robertson, Commissary of the commissariat of Peebles, &c. ;

Humbly Sheweth,

THAT your petitioner has been for a great many years the principal commissary of the diocese of Peebles, Selkirk, and Roxburghshires: That Mr Alexander Park, late writer in Selkirk, acted for a considerable time as your petitioner's clerk till the 1st of June last, when the petitioner was deprived of his services by his sudden death; and since that time his Majesty's Ministers have not nominated a successor to him.

That, as business of importance is soon expected to come on in your petitioner's court, which cannot proceed unless some person be authorised to act as clerk in the meantime, the petitioner has been advised to make the present application to your Lordship; and he humbly presumes to recommend Mr Alexander Williamson, writer in Peebles, as a person fully qualified to act as interim commissary clerk to the petitioner, till Government shall supply the vacancy which has occurred by the death of Mr Park.

May it therefore please your Lordships to nominate and appoint the said Alexander Williamson, to be interim clerk to the petitioner, with full power and authority to use and exercise the whole duties of that office, and to draw the usual fees and emoluments thereof, ay and until his Majesty, or the Prince Regent, shall appoint some other person to that situation; or to do otherwise as to your Lordship may seem proper.

According to justice, &c.

(Signed)

WM. R. ROBINSON.

Edinburgh, 9th August 1814.—The Lord Alloway, Ordinary officiating on the Bills, having considered this petition, nominates and appoints the said Alexander Williamson to be interim clerk to the petitioner, with full power and authority to use and exercise the whole duties of that office, and to draw the usual fees and emoluments thereof, ay and until this appointment shall be recalled, or that his Majesty or the Prince Regent shall appoint some

some other person to that situation,—the petitioner administering to the said Alexander Williamson the oath *de fidei*; and appoints the petition and deliverance to be recorded in the books of sederunt, and also in the commissary books of Peebles.

(Signed) D. CATHCART.

30th November 1814.

Authority to Mr David Anderson, Advocate, to assume the surname of Blair, in addition to Anderson.

Unto the Right Honourable the Lords of Council and Session,

The Petition of David Anderson of Inchyra, Advocate;

Humbly Sheweth,

THAT your petitioner has succeeded to the estate of Inchyra, by the death of John Anderson, Esq. of Inchyra, writer to the signet, his father, upon the 8th day of June last.

That, by dispositions of these dates, (December 30, 1777, and April 29, 1785,) granted by Mrs Isabel Blair, *alias* Beatt, spouse to the Reverend Thomas Beatt, minister of the gospel, with the advice and consent of her said husband, she disposed the estate of Inchyra, to and in favours of David Anderson, writer to the signet, now deceased; whom failing, to the said John Anderson, and the heirs of his body, and to the other substitutes therein mentioned, under the burdens, conditions, and provisions, declarations, and reservations, therein mentioned: And, *inter alia*, it is expressly provided and declared, ‘ That the said John Anderson, and the whole other heirs and substitutes above mentioned, as well male as female, who shall happen to succeed to the lands and estate above disposed, and the husbands of any heir female so succeeding, shall be holden and obliged to assume, and constantly retain, use, and bear, the surname, arms, and designations, of Blair of Inchyra, as their own proper surname, arms, and designations, in all time after their succession to the said lands and estate.’

That, as your petitioner was admitted a member of the Faculty of Advocates, and is at present practising at your Lordships Bar, under the surname of Anderson, he does not consider himself at liberty to assume that of Blair without your Lordships authority; and therefore makes this application for permission to do so.

May it therefore please your Lordships to authorise the petitioner, in addition to his present name of Anderson, to assume and use the surname of Blair; and to appoint this petition,

1814. petition, with your Lordships deliverance, to be entered in the books of sederunt.

According to justice, &c.

(Signed) R. JAMESON, for Mr A. WOOD.

Edinburgh, 30th November 1814.—The Lords having considered this petition, Find that the petitioner may assume and use the surname of *Blair*, in addition to that of *Anderson*; authorise and empower him to assume and use the name of David Anderson Blair accordingly; and appoint the said petition, with this deliverance thereon, to be inserted in the books of sederunt.

(Signed) C. HOPE, *I. P. D.*

16th December 1814.

Petition of Duncan Campbell, Esquire, of Ross.

Unto the Right Honourable the Lords of Council and Session,

The Petition of Duncan Campbell, Esquire, of Ross:

Humbly Sheweth,

THAT, upon 11th of June last, Andrew Hutton, commissary clerk of the commissariat of Stirling, gave in a petition to your Lordships, stating, that the office of commissary-depute of the said commissariat was vacant, in consequence of the resignation of Mr John Burn: That various applications had been made to the petitioner to appoint another depute, to which he had returned no answer. The petition prayed your Lordships 'to appoint another person to exercise the office of commissary-depute of the said commissariat of Stirling, until some person shall be named, and receive a commission from the said Duncan Campbell.' The petitioner, being appointed to lodge answers to this petition, stated, that he pledged himself that the court should be opened without delay, either by the commissary-principal, or a depute properly authorised.

On advising these papers, your Lordships were pleased to pronounce the following interlocutor: July 9th 1814. 'The Lords having resumed consideration of, and advised this petition, with the answers, they suspend the respondent, Duncan Campbell, from the office of principal commissary of the commissariat of Stirling, and nominate and appoint James Wright, writer in Stirling, to be commissary principal of the said commissariat *ad interim*, with the usual powers; and appoint this appointment to be marked in the sederunt book.'

The fact is, that, before the petition of Mr Hutton, the commissary clerk, was served upon the petitioner, he had resigned the

the office of commissary principal, which he did by a letter addressed to Lord Viscount Sidmouth, Secretary for the Home Department, bearing date the 21st of June last. It is unnecessary to state the motives for this resignation. The petitioner is confident that your Lordships would consider them honourable and praise-worthy. His intention to resign the office of commissary principal was the reason why he did not appoint a depute, conceiving that that step belonged more properly to his successor than to himself. He regrets that he did not explain this circumstance in his answers to the petition for Mr Hutton; but the omission arose from the remote part of the country where the petitioner lives, and the length of time necessary to communicate with his men of business in Edinburgh. Farther, he did not conceive that your Lordships would have gone beyond the prayer of Mr Hutton's petition, which was to appoint an interim depute, a measure to which the petitioner would have had not the least objection. 1814.

But, as the interlocutor stands, the petitioner is suspended from the office of commissary principal; and his suspension is appointed to be recorded in your Lordships' books of sederunt. As he feels greatly hurt that a stigma of this nature upon his character should be handed down to posterity, he takes the liberty of making the present application to your Lordships. He trusts that he acted from correct and honourable motives, though he may have been guilty of an omission in not explaining them with sufficient fullness to your Lordships; and even that omission proceeded entirely from misapprehension, and not from the smallest disrespect to the Court. As the petitioner had resigned the office previous to your Lordships' deliverance suspending him, he hopes that the interlocutor will be recalled, or, at least, explained in such a manner as to remove the censure upon his conduct which it now conveys. Further, he hopes that your Lordships will either appoint your former deliverance to be expunged from the books of sederunt, or an explanation of the nature now mentioned to be inserted therein.

May it therefore please your Lordships to alter the interlocutor under review; to find that there was no occasion to suspend the petitioner from the office of principal commissary of the commissariat of Stirling, in respect that he had resigned the said office before the date of the interlocutor, at least to explain the said interlocutor in such a manner as to remove the censure which it now conveys; and to appoint such an explanation to be inserted in the books of sederunt, or to give the petitioner such other redress in the premises, as to your Lordships shall seem just.

According to justice, &c.

(Signed) GEORGE CRANSTOWN.

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Edinburgh,

1815. *Edinburgh, November 12. 1814.*—The Lords having heard this petition, they refuse the desire of it ; but reserve to the petitioner, if he shall see proper, to apply to get the petition inserted in the books of sederunt, on his own proper expence, and allow it to be inserted accordingly.

(Signed) C. HOPE, I. P. D.

10th January 1815.

Appointment of interim Sheriff of Ayrshire.

*Unto the Right Honourable the Lords of Council and Session, or
the Lord Ordinary on the Bills,*

*The Petition of William Campbell, Sheriff-Clerk of the county of
Ayr ;*

Humbly Sheweth,

THAT Mr Edward M'Cormick, sheriff-depute of the shire of Ayr, died upon the 29th day of December last, whereby, the said office being vacated, a stop is put to any further procedure in such actions and causes as were depending before the Sheriff of the county.

That the petitioner thinks it his duty to state to your Lordships, that there are several actions and causes presently depending before the sheriff-court of Ayr, the delaying whereof may be detrimental to the lieges ; and, therefore, humbly begs leave to apply to your Lordships that you may be pleased to authorize a fit person to act as sheriff-depute of the said county in the meantime, until his Majesty shall think fit to nominate a sheriff-depute.

May it therefore please your Lordships to authorise and empower any fit person to exercise the office of sheriff-depute within the county of Ayr, until his Majesty shall think fit to nominate a sheriff-depute, or to signify his royal pleasure thereanent ; and dispense with the reading of the judgment in the minute-book, as is usual in the like cases.

According to justice, &c.

(Signed) AR. COLQUHOUN.

10th January 1815.—The Lord Bannatyne, Ordinary, officiating on the Bills, having considered this petition, authorises and empowers Walter Scott, Esquire, advocate, to exercise the office of sheriff-depute within the county of Ayr, until a sheriff-depute for said county is appointed by the Crown, and he be superseded ;
and

and ordains this warrant to be inserted in the books of sederunt; 1815.
and grants commission to the sheriff-depute or substitute of
Edinburghshire to take the oath of the said Walter Scott in
common form, before entering on his office.

(Signed) WM. M'LEOD BANNATYNE.

17th January 1815.

Procedure and Sentence against William Jameson,
W. S. &c.

AT moving, this day, a petition for William Jameson, writer to the signet, reclaiming against an interlocutor of Lord Alloway, Ordinary, in a process depending before the First Division of the Court, at the instance of Misses C. and J. Ramsay, milliners in Edinburgh, against the said William Jameson, the Lords of the First Division appointed the petition to be answered, on or before the 21st January current; and further, ordained the petitioner Mr William Jameson, and also Mr Robert Urquhart, advocate, who signs the petition along with him, to attend personally at the bar, on Tuesday next, the 24th day of January current, and appoint them and each of them to be served accordingly, personally, or at their dwelling place, by the hands of a macer of Court, with a copy of this deliverance, and order of attendance; and the Lords declare that they will resume consideration of the said petition upon the said last mentioned day accordingly.

January 24. 1815.

Present, the Judges of both Divisions of the Court.

The said Mr Robert Urquhart and William Jamieson having this day attended personally at the bar, in obedience to the above order of the 17th current, and severally emitted declarations: 'The Lords declare that they will resume consideration of the said matter upon Saturday next, the 28th current; appoint the said declarations to be printed at the expence of the agent for the Crown, and copies of the same to be boxed for the whole Lords of both Divisions, *quam primum*; and farther, the Lords appoint the said Mr Robert Urquhart and Mr William Jameson again to sist themselves personally at the Bar, upon Saturday next, when the consideration of the said matter is to be resumed; which order is intimated to them, and each of them, at the Bar, in open Court.'

Edinburgh, 28th January 1815.—The Lords of both Divisions of the Court having resumed consideration of the reclaiming petition

1815.

tion of Mr William Jameson, in the process against him at the instance of Misses C. and J. Ramsay, and having also considered the declarations of the said Mr William Jameson and of Mr Robert Urquhart, advocate, who signs the said petition along with him, they find, that the said petition contains matters highly libellous on the administration of justice, most unjust and injurious to the Faculty of Advocates, and disrespectful and insulting to the Court: Find, that the said libellous and disrespectful matter is totally irrelevant to the point in dispute, and discussed in said petition, and from that circumstance, and the facts admitted in the said William Jameson's declarations, and from his having had recourse to the signature of an advocate who does not practise at the bar, appears to have been written with a studied design to insult the Faculty of Advocates, the Court, and the administration of justice: Therefore, and in respect that the said William Jameson has not made, or offered to make, any apology for his conduct, and that this is not his first offence, and that he has not taken warning by the former lenient punishments inflicted on him, the Lords hereby suspend the said William Jameson from his office of a Writer to the Signet, and prohibit and discharge him from exercising the said office, and from writing, agenting, or doing any business before the Court, for the space of twelve kalendar months from this date; and farther, decern and ordain the said William Jameson to be taken from the Bar, and to be carried to the gaol of Canongate of Edinburgh, there to remain for the space of three kalendar months from this date, and then to be set at liberty; and grant warrant to macers and messengers to carry him to the said gaol, and to the magistrates of Canongate, and the keepers of their gaol, to receive and detain him accordingly: And in respect the said Robert Urquhart has declared that he did not know the contents of the said petition, but signed it, as he believed, merely in compliance with the rules of Court, and that he would not have signed it if he had known that it contained any thing disrespectful to the Court, the Lords ordain the said Robert Urquhart to be reprimanded by the Lord President; which sentence was presently intimated to the Dean and Faculty of Advocates, and ordain the same to be also intimated to the Keepers and Commissioners of the Signet, at the Signet Office, and inserted in the books of Sederunt.

(Signed) C. HOPE, *I. P. D.*

Edinburgh, 31st January 1815.

1815.

Appointment of Interim Keeper of the Register of Sasines for Stirlingshire, &c.*Unto the Right Honourable the Lords of Council and Session,**The Petition of Robert Henderson, Writer in Stirling, Deputy Keeper of the Register of Sasines, &c. for Stirlingshire, &c. ;**Humbly Sheweth,*

THAT, several years ago, Mr Thomas Wingate, writer in Stirling, was appointed keeper of the register of sasines for the counties of Stirling and Clackmannan, and stewartry of Monteath, by a commission from the Crown, and he named the petitioner his depute, who has accordingly acted when requisite in the discharge of that duty. That, by the death of the said Thomas Wingate, which event took place upon the 27th instant, the said office has become vacant ; and as no commission has as yet been given out by his Royal Highness the Prince Regent, in behalf of his Majesty, it becomes necessary for the lieges that some person should be appointed to the said office, so that the registration of the sasines, &c. which have been presented since the said Thomas Wingate's death, and those which may hereafter be presented, may proceed as usual until a new commission be issued by the Crown. The records and books of office are in the petitioner's possession.

May it therefore please your Lordships to appoint an interim keeper of the register of sasines, &c. for the said counties of Stirling and Clackmannan, and stewartry of Monteath, in place of the said Thomas Wingate, deceased, until a commission for a new keeper shall be issued by the Crown, or till further orders from your Lordships ; and to find such person so to be appointed by your Lordships entitled to the dues and emoluments of the office, during the time he shall officiate therein ; and to grant such warrant, and confer such powers as to your Lordships shall seem meet, and to allow said warrant to go out forthwith, and be extracted.

According to justice, &c.

(Signed) J. HARROWAR.

Edinburgh, January 31. 1815.—The Lords having heard this petition, appoint the petitioner to be interim keeper of the register

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1815. ter of sasines, &c. for the said counties of Stirling and Clackmannan, and stewartry of Monteath, in place of the said Thomas Wingate, until a commission for a new keeper shall be issued by the Crown, or until further orders, with power to him to execute and perform all the duties and functions specified in the commission to the said Thomas Wingate, during the time while the petitioner shall so officiate ; and find him entitled to the dues and emoluments of the said office during such time ; and allow this warrant to go out forthwith and be extracted, and to be recorded in the books of sederunt.

(Signed) C. HOPE, *I. P. D.*

February 21. 1815.

Petition for William Jameson not received, as not being subscribed by an Advocate.

THIS day a petition was presented to the Court (First Division) for William Jameson, writer to the signet, reclaiming against an interlocutor of the Court, of date the 28th of January last, in the action brought against him at the instance of Misses Ramsay, which petition the Court refused to receive, and prohibited the clerk to write upon, in respect it is not signed by an advocate, in terms of the act of sederunt.

13th June 1815.

Appointment of Lords Commissioners of Jury Court.


THE Right Honourable William Adam appointed Lord Chief Commissioner, and Lord Meadowbank and Lord Pitmilley appointed Lords Commissioners of Jury Court, by commission from Prince Regent, dated 9th May 1815.

Eod. die.

Royal Warrant for settling the Precedency of the Lord Chief Commissioner of Jury Court.

THEREAFTER, the said William Adam also presented to the said Lords of Council and Session, a warrant under the sign manual of his Royal Highness the Prince Regent, in the name and on the behalf of his Majesty, intituled, ' Warrant for settling the precedency of the Lord Chief Commissioner of the Jury Court in civil causes, when attending the Court of Session, or in the Divisions thereof.'

Which

Which warrant the said Lords likewise appointed to be inserted in the books of sederunt, and whereof the tenor follows :— 1815. 

In the name and on behalf of his Majesty,—
GEORGE, P. R.

Warrant for settling precedence of the Lord Chief Commissioner of the Jury Court.

George the Third, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, &c.

Forasmuch as it appears that, by an act passed in the present session of Parliament, intituled, 'An act to facilitate the administration of justice in that part of the united kingdom called Scotland, by the extending trial by jury to civil causes,' his Majesty is enabled to nominate and appoint one chief judge, and two other judges, being senators of the College of Justice, or barons of the Court of Exchequer in Scotland at the time of their nomination qualified to be senators of the College of Justice, to be called 'The Lords Commissioners of the Jury Court in civil causes,' before whom the trial of issues, to be directed pursuant to the said recited act, may be had and take place in the manner therein mentioned. And whereas, in the pursuance of the said act, we have nominated and appointed our right trusty and well beloved councillor, William Adam, a baron of the Court of Exchequer in Scotland, duly qualified according to the said act, to be the chief judge of the said Jury Court, by the style and title of the Lord Chief Commissioner of the Jury Court in civil causes. And whereas, by virtue of the said recited act, certain duties are to be discharged by the said Lord Chief Commissioner in conjunction as well with the Court of Session as with the two Divisions of the said Court respectively, and it is therefore necessary and proper to settle the rank and precedence of the said Lord Chief Commissioner, when assembled with the Court of Session, or with a Division thereof; therefore, we do, by these presents, appoint and ordain that the Lord Chief Commissioner of the Jury Court shall hold rank and precedence next after the Lord Justice-Clerk in all meetings of the Court of Session: That, when present in the First Division of the said Court, he shall hold rank and precedence next after the Lord President of the Court of Session; and when present in the Second Division, he shall hold rank and precedence next after the Lord Justice-Clerk, the Lord President of the Second Division of the Court of Session. Given at our Court at Carlton House, the 27th day of May 1815, in the 55th year of our reign.

By the command of his Royal Highness the Prince Regent, in the name and on the behalf of his Majesty.

(Signed) SIDMOUTH.

1815.

11th July 1815.

Act appointing Interim Town-Clerk of Forfar.

THIS day, upon a petition presented by William Roberts, David Don, John Nicol, William Hutchison, Stuart Black, John Mann, David Scrymgeour, Charles Rodger, William Hunter, and James Walker, all writers in Forfar, and procurators before the sheriff-court of the county and bailie court of the burgh of Forfar, praying, for the reasons therein stated, that it might please the Lords of the Second Division of the Court, on resuming consideration of the said petition, with or without answers, and failing the appointment of a proper person as town-clerk of Forfar by the Magistrates, to nominate and appoint William Hunter, writer in Forfar, to be clerk of the burgh of Forfar *ad interim*, and to authorize him to perform and execute the duties ay and until James Adam, son of Mr David Adam, merchant in Forfar, (to whom, with Mr James Walker, now deceased, the magistrates and town council of Forfar granted a commission to be town-clerks during their joint lives, and thereafter to the survivor solely for his life, in manner set forth in the petition), or some other person duly qualified, shall be admitted by the magistrates to the performance of the duties of the office, the said William Hunter finding sufficient caution acted in their Lordships court books duly to perform the duties of the said office, to collect the whole fees and emoluments thereof, to keep an accurate account of the same, and to account for the amount to the person who shall be ultimately found entitled thereto, reserving a reasonable gratification for his trouble, or to grant such other relief in the premises as to their Lordships should seem just; and to which petition, answers were given in for the said James Adam, town-clerk of Forfar, and also for 'the magistrates and town council of Forfar:'. The Lords pronounced the following interlocutor:—*Edinburgh, 11th July 1815.* The Lords having advised the within mentioned petition, with the answers, nominate and appoint William Hunter, writer in Forfar, to be *interim* town-clerk of the burgh of Forfar; and authorise him to discharge every part of the duty of that office until this appointment shall be recalled by this Court, reserving to James Adam to claim the whole dues and emoluments of that office from the said William Hunter, in case he shall be found to have right thereto; and appoint this nomination to be inserted in the sederunt book, and decern; and dispense with the Minute-Book.

(Signed)

'D. BOYLE, I. P. D.'

23d November 1815. 1815.

Act of Sederunt amending former Act for enforcing
Boxing Papers regularly.

THE Lords of Council and Session having taken into their consideration that their act of sederunt of 11th March 1814 is in some respects defective; therefore, they do hereby recall that part of the said act, sect. 5, whereby it is declared to be sufficient that all printed papers be lodged at No. 9, in the Register House, during the hours of attendance of the collector of the fee fund in the said office, upon the day when such boxing should take place: And, in place thereof, the Lords enact and ordain, that, upon the box-days during the sitting of the Court, and in the vacations and Christmas recess, all printed papers for the thirteen Ordinary Judges, together with those for other judges or officers for whom papers ought to be boxed, in terms of the said act, at the said office, be lodged at the said office, No. 9, Register House, on or before one o'clock afternoon of each boxing day, under the highest certification. And, further, the said Lords prohibit and discharge the Clerks of Session, and their deputies and assistants, from receiving, or writing upon any papers requiring to be marked by the collector for the thirteen Ordinary Judges' clerks, unless such paper shall have been previously marked by the said collector, and bear that the fees due upon such paper have been paid: And, with these variations, the Lords appoint the said act to be observed in all other respects; and they appoint this act to be printed and published in the usual manner, and ordain the foresaid enactments to commence from and after the 23d day of December next.

(Signed)

C. HOPE, I. P. D.

9th February 1816.

Procedure relative to Mr Archibald Swinton, W. S.

THE whole Judges of both Divisions of the Court being present in the Court-house of the First Division, except Lord Meadowbank,—

The Lord President stated to their Lordships that he had convened both Divisions of the Court, in consequence of a communication made to him by the Lord Justice-Clerk, at the desire of the Judges of the Second Division.

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That

1816. That it appeared from a certain paper, in a question depending before the Second Division, between Timothy Lane and others, creditors of the York Buildings Company, and Archibald Swinton, writer to the signet, their agent, attorney and mandatory, and John Taylor, Esquire, of Blackhouse, son of the deceased John Taylor, writer to the signet; that the said Archibald Swinton had preferred a direct charge of gross partiality against Lord Meadowbank, Ordinary, in certain causes relating to the affairs of the York Buildings Company: Which conduct upon the part of Mr Swinton was highly culpable, as affecting the character of Lord Meadowbank, derogatory to the honour of this Court, and reflecting on the purity of its procedure, and, as such, could not be passed over, without the strictest investigation and reprehension.

The Lord President further submitted to the Court, that, in respect of the mode in which Mr Swinton's offence had been introduced into these papers, and in the other proceedings in the cause alluded to, not being direct accusations made to Lord Meadowbank himself, nor expressed at the Bar, nor contained in a paper given in to the Court by Mr Archibald Swinton himself, which might have authorised their Lordships to take immediate cognizance of the offence, as an open contempt of Court, and derogatory to their authority and dignity; but as having been chiefly brought forward by Mr Swinton in his correspondence upon the subject of the foresaid process, and others depending before Lord Meadowbank, betwixt the same parties, which correspondence now made part of the record of Court. The Lord President was therefore of opinion that the case ought to be remitted to his Majesty's Advocate, for his consideration, and with a recommendation to proceed by petition and complaint at his Lordship's instance against Mr Swinton, or in such other form as should seem to his Lordship best adapted for vindicating the honour and dignity of the Court, and obtaining redress and justice to all concerned.

And the Court having deliberated on the subject, and concurred in the opinion delivered by the Lord President, they appoint the agents for the parties forthwith to lay copies of the printed papers in the cause before mentioned, together with the letters of Mr Archibald Swinton therein quoted and referred to, before his Majesty's Advocate, and remit to his Lordship to consider the same, and to proceed in the investigation of the offence committed by Mr Swinton, by petition and complaint, or by such other form of process as to his Lordship may appear best calculated to answer the object of this remit.

(Signed) C. HOPE, *I. P. D.*

Interlocutor.

Interlocutor finding that the affinity of husband of sister-in-law is no ground of declinature.

16th February 1816.

1816.

AT advising the cause Ebenezer Goldie, Esquire, against Alexander West Hamilton, Esquire, which stood over for reconsideration in consequence of the Court having been equally divided, before the Lords proceeded to deliberate, the Lord Justice-Clerk observed that, since the cause was last before the Court, the sister of his wife having been married to the defender, he declined judging in the cause, and therefore he left the Chair. The Lords having elected Lord Glenlee President, and having considered the act 1681, with former precedents, find that there is no affinity between the Lord Justice-Clerk and the defender, and that the circumstance stated by his Lordship affords no ground of declinature, and ordain this deliverance to be inserted in the books of Sederunt of this Division of the Court.

(Signed) WILLIAM MILLER, *I. P. D.*

9th March 1816.

Report by the Lords Committee, relative to the act of Sederunt 6th February 1806, relative to accounts of expences, and office of auditor, and remit to the Parliamentary Commissioners on the fees of Courts in Scotland.

THE committee to whom it was remitted by the Court to consider and revise the act of Sederunt of the 6th February 1806, 'relative to accounts of expences, and establishing the office of auditor of court,' having taken the subject into consideration, beg leave to report it as their opinion, that, as the proper revision of that act of Sederunt appears to be a matter of the highest importance to the interests both of the public and of the profession to which it is peculiarly applicable; it is expedient that it should be taken into consideration and reported upon by the Parliamentary Commissioners now employed in investigating the fees of Court, and to whom, it is understood, an application on behalf of the Writers to the Signet has already been made in regard to it; and, for the above purpose, the committee beg leave to suggest that an order of reference should be made by the whole Court, before the expiry of the present Session.

(Signed) D. BOYLE.

7th March 1816.

9th

1816. *9th March 1816.*—The Court, both Divisions having taken the preceding report into consideration, they approve thereof, and remit to the Parliamentary Commissioners now employed in the investigation of the fees of Court to consider the foresaid act of Sederunt of date the 6th day of February 1806, relative to accounts of expences, and establishing the office of auditor of Court, and to report thereupon to the Court; and appoint an authenticated copy of the said report, and this order, to be transmitted to the Commissioners by Mr James Walker, one of the Principal Clerks of Session.

(Signed) C. HOPE, *I. P. D.*

10th July 1816.

Appointment of Lord Gillies as Lord Commissioner of Jury Court.

LORD GILLIES appointed one of the Lords Commissioners of the Jury Court, in place of Lord Meadowbank, deceased, by letter from the Prince Regent, dated 26th June 1816.

12th November 1816.

Appointment of Lord Reston to the Second Division.

LORD RESTON appointed one of the Lords of the Second Division, in place of Lord Meadowbank, deceased, by warrant under the Sign Manual of Prince Regent, dated 12th August 1816.

Eod. die.

Appointment of Lord Advocate.

ALEXANDER MACONCHIE, Esquire, appointed Lord Advocate, by Commission dated 9th July 1816.

12th

12th November 1816. 1816.

Appointment of Solicitor-General.

JAMES WEDDERBURN, Esquire, appointed Solicitor-General, by Commission dated 10th July 1816.

November 14. 1816.

Act of Sederunt declaring and appointing the manner of Striking the Fiars in the Stewartry of Orkney and Zetland.

THE Lords of Council and Session considering that, by the act of Sederunt, dated 21st December 1723, intituled 'Act declaring and appointing the manner of Striking the Sheriff's Fiars,' it is provided, that the sheriffs of Scotland, and their deputies, shall, betwixt the 4th and 20th of February yearly, summon before them a competent number of witnesses living within the sheriffdom, who have knowledge and experience of the prices and trade of victual in these bounds, and from them shall chuse fifteen men, whereof not fewer than eight shall be heritors, to pass upon the inquest, and shall return their verdict on the evidence specified by the said Act of Sederunt, or their own proper knowledge, concerning the fiars for the preceding crop, of every kind of victual of the produce of that sheriffdom; and considering that, in Orkney and Zetland, to which the provisions of the said Act of Sederunt are declared to extend, it is not possible, so early as the month of February, to ascertain what ought to be established as the just fiars prices at which the several sorts of victual have been bought and sold, especially since the 1st of November immediately preceding, until the day when the inquest is taken, and that it is often difficult to collect such a number of heritors properly qualified, as ought to pass upon the assize: Therefore, the said Lords do hereby appoint the investigation into the fiar prices required by the said Act of Sederunt to take place in the stewartry of Orkney and Zetland, betwixt the 10th and 20th of May yearly, in all time coming; and declare, that it shall be lawful to the sheriff to chuse fifteen men, whereof not fewer than five shall be heritors, to pass upon the inquest: That the sheriff-depute or his substitutes shall, on or before the 1st day of June, pronounce, and give forth sentence, according to the said verdict, determining and fixing the fiar prices for the crop preceding, of each kind of victual of the produce of that sheriffdom: And that the said sheriff of Orkney and Zetland,

1816. land, and his substitutes, and their clerks, do begin the observation thereof in May next. And the said Lords renew the said Act of Sederunt, and declare that it shall be obligatory on the sheriff-depute of Orkney and Zetland, and his substitutes for Orkney and Zetland, in all other respects: And the said Lords farther appoint this act to be published in the usual form; and appoint the Clerks of Session to give extracts thereof to the sheriff-depute of Orkney and Zetland, and his said substitutes, and to the sheriff clerks of Orkney and Zetland, *gratis*, to the end that it may be recorded in the sheriff books, which the sheriff clerks of Orkney and Zetland are hereby enjoined to do accordingly.

(Signed) C. HOPE, *I. P. D.*

November 16. 1816.

Lord Cringletie admitted.

JAMES WOLFE MURRAY, Esquire, admitted as a Judge of First Division by the title of 'Lord Cringletie,' in place of Lord Reston, removed to Second Division, by letter from the Prince Regent, dated 8th July 1816.

November 27. 1816.

Sentence against Robert Noble for Fraudulent Bankruptcy.

THIS day, the First Division of the Court, upon advising the petition and complaint of his Majesty's Advocate against Robert Noble late haberdasher in Edinburgh, and procedure following thereupon, pronounced the following interlocutor:—The Lords having resumed consideration of this complaint, and advised the same with the whole debate, and proceedings thereon, and depositions of witnesses, and writs produced for both parties, they find the said petition and complaint proven: Find and declare the defender, Robert Noble, to be a fraudulent bankrupt. And, therefore, decern and declare the said Robert Noble to be infamous, *infamis juris*, incapable of office, honour, or dignity, or of bearing testimony in judgment as a witness, or of officiating as a member of any inquest or assize. And farther, the Lords, considering the sixteen months imprisonment already sustained by the defender, decern and ordain the said Robert Noble to be carried from the Bar back to the tolbooth of Edinburgh, and to remain incarcerated therein until the 27th day of July next, and thereafter

thereafter to be set at liberty ; and grant warrant to the Magistrates of Edinburgh, and keeper of their gaol, him to receive and detain accordingly. And, so far as concerns the extracting of this warrant of incarceration, dispense with the minute-book ; as also appoint this sentence to be inserted in the books of Sederunt. 1816.

(Signed) C. HOPE, I. P. D.

November 27. 1816.

Sentence against the Magistrates of Lochmaben, for refusing and delaying to take the Pursuer's Oath in a Process of *Cessio Bonorum*, upon a Commission directed to them.

IN the process of *cessio bonorum*, pursued before the First Division of the Court of Session, at the instance of James Brown, captain in the 60th regiment of foot, against his creditors,—the pursuer having been found entitled to the benefit of the *cessio*, upon the 6th of July last, and a commission granted to the magistrates of Lochmaben to take his oath in the usual form, a commission was extracted and forwarded to Lochmaben, and presented to the magistrates, upon the 9th of July, under form of instrument, with a requisition to take Captain Brown's oath ; but which they then, for frivolous reasons, refused and delayed to do. The Lords, upon the 11th July 1816, ' Appointed and ' ordained the three bailies of Lochmaben to attend personally ' at the Bar, on the third sederunt day in November following, ' to answer for their refusal or delay to take the pursuer's oath.' And, upon advising the process, on the 14th November current, ' Found Francis Bell, John Wells, and Robert Brown, the bailies ' of Lochmaben, liable, conjunctly and severally, to the pursuer ' in the expence incurred by him since the date of the commission ' for taking his oath.' And afterwards, upon the date hereof, ' compeared at the Bar the within Francis Bell and John Wells ; ' whereupon, the Lords rebuke the said John Wells and Francis ' Bell, and admonish them to observe more caution and attention ' in time to come in their official duty. And, considering the ' early liberation of the pursuer, Captain Brown, and the several ' excuses assigned in this minute, which satisfy the Court that ' no wilful wrong to Captain Brown, or intentional disrespect to ' the Court, was intended by them, they forbear to inflict any ' farther censure ; and discharge the order for their and Robert ' Brown's farther attendance ; and appoint this deliverance to be ' inserted in the books of sederunt.'

1816.

14th December 1816.

Appointment of Lord-Clerk-Register.

ARCHIBALD COLQUHOUN, Esq. appointed Lord Clerk-Register, in place of Lord Frederick Campbell, deceased, by commission from Prince Regent, dated 25th June 1816.

Edinburgh, 4th February 1817.

Appointment of Interim Commissary Clerk of Glasgow.

Unto the Right Honourable the Lords of Council and Session,

The Petition of William Erskine, Esq. Commissary of Glasgow ;

Humbly Sheweth,

THAT the office of commissary clerk of the commissariat of Glasgow became vacant on the 17th of January last, by the death of Mr Benjamin Barton, who had long held that office.

From the state of the business in the court, the greatest inconvenience and embarrassment must be occasioned by a delay to fill the office. The petitioner, therefore, now humbly prays your Lordships to appoint a fit person to be interim commissary clerk, till a regular appointment shall be made by the Crown : And he suggests Mr Thomas Meek, writer in Glasgow, as a fit person to hold the said office.

May it therefore please your Lordships to nominate and appoint the said Thomas Meek to be interim commissary clerk of the commissariat of Glasgow ; and to exercise the said office till an appointment thereto shall be made by the Crown ; and to dispense with the minute-book.

According to justice, &c.

(Signed) AW. MURRAY, for Mr SANDFORD.

4th February 1817.—The Lords having considered this petition, nominate and appoint the within named Thomas Meek to be interim commissary clerk of the commissariat of Glasgow ; and authorise and empower him to exercise and use the powers and duties of the said office, until a regular appointment and commission thereto by the Crown shall be produced and recorded ;

ed ; appoint this deliverance to be recorded in the books of sederunt, and dispense with the minute-book. 1817.

(Signed) C. HOPE, I. P. D.

24th May 1817.

Act declaring New Jail of Perth a Legal Prison.

Unto the Right Honourable the Lords of Council and Session,

The Petition of the Provost, Magistrates, and Town Council of the City of Perth ;

Humbly Sheweth,

THAT the gaol of the city of Perth is the place of confinement for the prisoners of the county as well as of the city itself ; and it is also the prison connected with the Circuit Courts of Justiciary held at Perth for the said county, and for the adjoining counties of Fife and Forfar : That the said gaol being in an incommodious situation, extremely insecure, and neither sufficiently large, nor, in other respects, well adapted for the reception, confinement, and separation of the persons confined therein, it became necessary that a new gaol should be built for the use of the city and county, in a more commodious situation ; and, for that purpose, two several acts of Parliament were obtained ; the first in the year 1813 ; and the other in the year 1815, copies of which are herewith produced, whereby certain commissioners, described in the said acts, are appointed on behalf of the city and of the county, ‘ for building or erecting a gaol or prison, of and for the city and county of Perth, in such situation, and of such materials, as they shall think fit, with proper and sufficient yards, courts, and offices, and conveniences, passages, and avenues, to and from the same.’

After the passing of these acts, meetings of the commissioners were held, and steps were taken for carrying them into execution. A site for the proposed buildings was obtained in a situation commodious, and, in other respects, well adapted for the purposes intended ; the necessary funds were raised, in terms of the acts ; plans were procured from an eminent architect, which were maturely considered by the commissioners before being approved of ; and every other step was taken to make the proposed buildings equally conducive to complete security and to the health and comfort of the prisoners. The building is now finished, with proper and sufficient yards, courts, out-offices, and conveniences, passages, and avenues, to and from the same, all in terms of the acts of Parliament.

That, by the first of the said acts, it is *inter alia* enacted, ‘ That, when the said gaol shall be finished, the same shall be taken to
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1817. ' be and made use of as the gaol for criminals, and debtors, and
 ' vagrants, for the said city and county, and for prisoners brought
 ' to trial at the Circuit Courts of Justiciary, held or to be held at
 ' Perth; and it shall and may be lawful for all and any of the
 ' justices of the peace for the said county to issue his or their
 ' warrant or warrants for transmitting to and confining in the said
 ' gaol, as a county gaol, all vagrants and criminals of every de-
 ' scription, subject by law to be apprehended and confined within
 ' the said county; and the magistrates and town council of the
 ' said city, and the gaoler or keeper, or gaolers or keepers, of
 ' the said gaol, shall respectively be liable and answerable to all
 ' intents and purposes whatsoever, for the safe custody of all such
 ' persons as may from time to time be committed to their or his
 ' custody in the said new gaol, in like manner as the magistrates
 ' and town council of the said city, and keeper or gaoler of the
 ' present gaol of the said city, now are and is liable by law for the
 ' safe custody of all persons committed to the present gaol of the
 ' said city; and the magistrates and town council of the said city
 ' shall have the like power over the said new gaol, as they have
 ' or might have over the present gaol by any law now in force.'

By the said first act, it is further *inter alia* enacted, ' That,
 ' when the said new gaol shall be made fit for the reception of
 ' prisoners, the said commissioners, or any two or more of them,
 ' shall cause notice thereof in writing to be given to the magis-
 ' trates and town council of the said city for the time, and to the
 ' keeper or keepers of the present gaol thereof, who shall respec-
 ' tively remove to such new gaol all such debtors, felons, and
 ' other prisoners as shall be then in custody; and such removal
 ' or removals shall not be deemed or taken to be an escape or
 ' escapes.'

At present, the gaol of Perth, from the number of prisoners confined in it, is very much crowded; and, as the new gaol is now properly fitted for their reception, the petitioners are desirous of removing them to it, and of using it in future as the legal prison of the city; but, before doing so, they are desirous to have the authority of your Lordships. In evidence of the fitness of the new gaol for a place of confinement, so far as the comfort and health of the prisoners are concerned, the petitioners produce along with this petition a certificate by a respectable physician, who has inspected and particularly examined the building; and in relation to the fitness of the new gaol for a legal prison, in point of security, and in other respects, Lord Pitmilley, who went through the whole buildings, and minutely examined them, when in Perth on the northern Circuit last month, will be able to give your Lordships such information as you may require.

The present gaol, like other old Scotch gaols, has no airing ground for the use of the prisoners attached to it; but there is a small court or piece of ground attached to the new one, within the surrounding walls, and properly secured, in which it is in-
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tended to allow the prisoners to walk and take such other exercise as may be suitable, and receive the benefit of the fresh air. They will of course be under such regulations as in the circumstances may appear proper. In granting this indulgence to the prisoners under their charge, the petitioners presume they will not act in any ways contrary to law. They trust that it will not be deemed inconsistent with the purpose of confinement for which the prisoners are delivered to them, to allow this indulgence, which, in many cases, is absolutely necessary for the preservation of the health of the unfortunate prisoner, and appears to have been in the view of the legislature when passing the above acts of Parliament, which authorise the gaol to be built with proper and sufficient yards and courts. It is an indulgence which the petitioners observe is now allowed in several gaols in Scotland, and it has long been usual in England. But before granting this indulgence to the prisoners under their charge, the petitioners are desirous of receiving the authority of your Lordships.

May it therefore please your Lordships, after receiving the report of Lord Pitmilley upon the matters above mentioned, to find and declare that part of the said new gaol built under the authority of the foresaid act of Parliament, destined for the confinement of debtors, to be a legal prison ; to authorise the removal of the prisoners for debt confined in the present gaol from it to the said new gaol ; and also to find and declare that it shall and may be lawful to the petitioners in time coming to grant to the prisoners confined in the said new gaol the use of the said airing ground attached thereto, without it being from thence inferred that the petitioners have done any thing contrary to the purpose of confinement for which such prisoners may be lodged in the said gaol ; or to do otherwise in the premises as to your Lordships shall seem just.

According to justice, &c.

(Signed) GEO. CLARK CRAIGIE.

Perth, 19th May 1817.—I, Dr Andrew Kelty, physician in Perth, do hereby certify and attest that the new gaol of this city, which I have this day inspected and particularly examined, is erected in an airy and healthy situation ; and that the walls are quite dry and free from damp ; and the prisoners may with safety be placed there without any risk of disease arising from their removal. Witness my hand, place and date above written,

(Signed) A. KELTY.

Edinburgh, 24th May 1817.—The Lords having considered this petition, with the certificate produced, and having heard from
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1817. Lord Pitmilley, one of the permanent Ordinaries of this Division of the Court, a verbal report of the favourable opinion formed by his Lordship on an inspection of the new gaol, mentioned in the petition, in the course of the late Circuit, find and declare that part of the said new gaol destined for the confinement of debtors a legal prison; and authorise the removal of the debtors from the old gaol of Perth to the accommodations provided for them in the said new gaol; and decern accordingly; and ordain this petition, with the deliverance of the Court, and the certificate above mentioned, to be recorded in the books of sederunt; and dispense with the minute-book.

(Signed) D. BOYLE, I. P. D.

11th June 1817.

Act appointing Interim Bailies for Burgh of Montrose.

Unto the Right Honourable the Lords of Council and Session,

The Petition of Charles Barclay, William Caird, William Sharp, George Shepherd, Thomas Ross, Thomas Dougal, John Brown, Andrew Thom, Patrick Carnegie, John Dourward, Andrew Smith, William Anderson, Patrick Mason, Robert Gibb, and James Dow, lately Magistrates and Councillors, and Alexander Thomson and James Leighton, conjunct town-clerks of the burgh of Montrose;

Humbly Sheweth,

THAT, in a process of petition and complaint, at the instance of John Barclay, and others, your Lordships, of this date, (June 7th 1817) pronounced the following interlocutor:—‘ The Lords having advised this petition and complaint, with answers thereto, replies and duplies, sustain the complaint; find that the election complained of was illegal, void and null, to all intents and purposes; and reduce, decern, and declare accordingly: Find the persons complained upon liable in expences; and remit to the auditor to report on the account thereof when lodged.’

The effect of this judgment proceeding upon an error committed, with the concurrence of all the persons present at the meeting for election, by which some part of the magistracy appear, from the minute, to have been elected by ballot, is entirely to disfranchise the burgh, and to leave it without any local magistracy, or any officers empowered, either to conduct the ordinary police, or to receive resignations, or give sasine in the burgage tenements.

The petitioners knowing that the three bailies and the dean
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of guild had, in reality, been elected by open vote, though, by the minutes, the bailies appear to have been chosen by ballot, proposed to refer this point of fact to the oaths of the complain- 1817.
ers. But this point appearing to your Lordships to be attended with doubt and difficulty, and the effect of it being also doubtful, even if admitted, while, in the meantime, the judgment of your Lordships annulling the election renders it hazardous for the petitioners, and for the public interest, that they should continue to act as magistrates without some other authority, they have determined, by the resolutions hereto annexed, to acquiesce in the decision, but to take such measures as have been suggested to them for the general interest of the community, until the burgh shall be re-established by a new warrant from the Crown.

It has appeared to the petitioners, that the most proper way of continuing the local jurisdiction, civil and criminal, is, by an application to the sheriff-depute of the county for the appointment of a proper person to act as sheriff-substitute within the bounds and previous limits of the jurisdiction of the burgh of Montrose; and they have accordingly presented such an application to him.

But with regard to the land rights, they believe it lies entirely with your Lordships to provide such an interim arrangement as the nature of the case requires. As this proceeding is of an extraordinary nature, the petitioners shall here quote the statement of Mr Erskine concerning the powers of your Lordships in this present case (*Ersk. b. i. tit. 3, sect. 2. 3.*):—‘ They (the Court of Session) are also in use to appoint persons by special commission to act as officers of the law, in completing of feudal rights, where property may be in danger by the death or supervening incapacity of the stated officers. Thus, when the city of Edinburgh was, after 1745, without a magistracy, and so had no bailies to receive resignations, or give seisin in burgage tenements, they appointed certain persons bailies for that special purpose, till a new magistracy should be established in the due course of law : And, on the death of any sheriff-depute, they appoint an interim deputy, who acts under their authority, not only as an officer of the law, but as a judge. These, and the like extraordinary powers, were peculiar to the Privy Council of Scotland, while that Court subsisted ; and if they were not now transferred to the Court of Session, there would be a defect in that part of our constitution, and many wrongs would be without a remedy.’

According to the precedent and authority here recited, the petitioners now apply to your Lordships for the appointment of proper persons as bailies, for the special purpose of receiving resignations, and giving seisin in tenements held burgage of the burgh, until a new magistracy shall be established in due course of law.

And as it is also necessary that some proper person or persons be appointed to take charge in the meantime of the funds of the burgh, the petitioners apply to your Lordships for another appointment for that purpose.

1817.  May it therefore please your Lordships to nominate and appoint the said petitioner, Charles Barclay, lately provost, and the said William Caird, William Sharp, and George Shepherd, lately bailies of the said burgh, and the said Thomas Ross, lately dean of guild, or such of them as your Lordships may think proper, to be bailies of the said burgh, for the special purpose of receiving resignations, or giving seisin in any lands held burgage of the burgh of Montrose, until the magistracy of the burgh shall be restored; and further, to appoint John Brown, lately hospital master, and Andrew Thom, lately chamberlain of the burgh, or the said Alexander Thomson, and James Leighton, conjunct town-clerks of the said burgh, to take charge in the meantime of the funds and patrimonial interests of the burgh, with such powers as it may appear to your Lordships proper to entrust to them in this special case.

According to justice, &c.

(Signed) JAMES MONCRIEFF.

Edinburgh, 11th June 1817.—Intimated to agent for complainers in the original petition and complaint.

Edinburgh, 12th June 1817.—The Lords having considered this petition, with the practice of the Court on similar occasions, they nominate and appoint the petitioners, Charles Barclay, William Caird, William Sharp, George Shepherd, and Thomas Ross, to be bailies of the burgh of Montrose *ad interim*, until the magistracy of the burgh shall be restored, and that for the special purpose of receiving resignations, or giving sasine in any lands held burgage of the said burgh; also appoint the petitioners Alexander Thomson and James Leighton to take charge in the meantime of the funds or patrimonial interest of the burgh, with the usual powers; they always before extract finding sufficient caution for their intromissions with the funds of the burgh; and ordain this petition, with this deliverance, to be recorded in the books of Sederunt, and dispense with the reading hereof in the Minute-Book.

(Signed) D. BOYLE, I. P. D.

14th June 1817.

Appointment of Principal Clerk of Session.

ROBERT DUNDAS, W. S. appointed one of the Principal Clerks of Session, in place of James Walker, deceased, by commission, dated 23d May 1817.

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14th June 1817. 1817.

Appointment of Conjunct Clerk of Bills.

JAMES SKENE, Esquire, advocate, appointed conjunct clerk of bills, by commission, dated 7th June 1817.

17th June 1817.

Act declaring the New Jail of Kirkcudbright a legal Prison.

Unto the Right Honourable the Lords of Council and Session,

The Petition of the Provost, Magistrates, and Town-Council of the Royal Burgh of Kirkcudbright;

Humbly Sheweth,

THAT the gaol of the town of Kirkcudbright being in an incommodious situation, extremely insecure, and neither sufficiently large, nor in other respects well adapted for the reception, confinement, and separation of the prisoners, it became necessary that a new gaol should be built for the use of the town and county.

The Magistrates and Council, therefore, after procuring proper plans, and obtaining a commodious situation, have, with the approbation of, and liberal aid from the Commissioners of Supply of the stewartry of Kirkcudbright, erected a new gaol at the expence of nearly L.5000 sterling. The buildings have been for some time finished, and have undergone the examination of an able architect as to their sufficiency.

As the new gaol is now properly fitted up for the reception and security of prisoners, the petitioners are desirous of removing to it those at present under confinement in the old goal, and of using the new gaol in future as the legal prison of the town and stewartry of Kirkcudbright; but, before doing so, they are desirous to have the authority of your Lordships.

In evidence of the fitness of the new gaol for a place of confinement, so far as the comfort and health of the prisoners are concerned, the petitioners now produce a certificate by Dr John Sanders Shand, physician, Kirkcudbright, who has inspected and minutely examined the building, as per copy annexed; and in relation to its fitness for a legal prison in point of size, convenience,

1817. convenience, security, and other respects, there is herewith also produced a certificate under the hands of Sir Alexander Gordon, steward-depute of the said stewartry, as per copy also annexed.

There is a small yard or piece of ground (and another more extensive is intended) connected with the new gaol, and properly secured, in which it is proposed to allow the prisoners to take exercise, and receive the benefit of the fresh air. They will of course be under such regulations as in the circumstances may appear proper. The petitioners, by such allowance, presume they will not act in any way contrary to law. They trust that it will not be deemed inconsistent with the purposes of confinement to grant an indulgence, which in many cases is absolutely necessary for the preservation of the health of the prisoners; and which, the petitioners observe, has already been permitted in several gaols in Scotland. But, before giving such an indulgence to the prisoners under their charge, the petitioners are desirous of receiving the authority of your Lordships.

May it therefore please your Lordships to find and declare the said new gaol to be a legal prison; to authorise the removal of the prisoners confined for debt in the present gaol to the new gaol; and also to find and declare that it shall and may be lawful to the petitioners in time coming to grant to the prisoners confined in the said new gaol the use of the ground attached thereto for airing ground, without its being from thence inferred that the petitioners have done any thing contrary to the purposes of confinement, for which such prisoners may be lodged in the said gaol; or to do otherwise in the premises as to your Lordships shall seem just.

According to justice, &c.

(Signed) THO. MAITLAND:

Kirkcudbright, June 5. 1817.—I, John Sanders Shand, physician in Kirkcudbright, hereby certify, that, having this day minutely examined the new gaol in Kirkcudbright, I found the walls perfectly dry, the apartments commodious, well ventilated, and free from damp, and that it may immediately be used as a gaol, without any risk to the health of the prisoners.

(Signed) JOHN S. SHAND.

Sir Alexander Gordon, steward-depute of the stewartry of Kirkcudbright, does hereby certify, that, at desire of the Magistrates of the burgh of Kirkcudbright, he this day went through and minutely examined the new gaol of the said burgh; and that, in point of size, convenience, and security, and in other respects, it is well fitted to be declared and used as a legal prison for the
said

said burgh and stewartry. Witness his hand at Kirkcudbright, 1817.
the 5th June 1817 years.

(Signed) ALEX. GORDON.

Edinburgh, 17th June 1817.—The Lords having considered this petition, with the certificates produced, find and declare the new jail of Kirkcudbright to be a legal prison; and authorise the removal of the debtors confined in the old jail to the accommodation provided for them in the said new jail, and decern accordingly; and ordain this petition, with the deliverance of the Court, and the certificates above mentioned, to be recorded in the books of sederunt, and dispense with the minute-book.

(Signed) D. BOYLE, I. P. D.

19th June 1817.

Sentence against Archibald Swinton, Writer to the Signet, for charge made by him of partiality and wilful delay of justice.

THE Lords of both Divisions of the Court having advised the petition and complaint at the instance of his Majesty's Advocate against Mr Archibald Swinton, writer to the signet, which complaint sets forth in substance, that, in certain letters written by the said Archibald Swinton to Mr John Morrison, writer to the signet, he had made direct charges against Lord Meadowbank of partiality and wilful delay of justice in a process depending before his Lordship, between Messrs Taylor and certain creditors of the York Buildings Company, with the answers to said complaint, replies, additional replies, and duplies, they find the said Mr Archibald Swinton had thereby been guilty of a high indignity to Lord Meadowbank, tending to bring the administration of justice by this Supreme Court into suspicion with the people: Find it not relevant, in a charge of this nature, at the instance of his Majesty's Advocate, for the Court to pronounce a formal judgment on the truth or falsehood of the said charge; but, at the same time, they feel that they should not do justice to the memory of Lord Meadowbank, and might leave a most mischievous impression on the minds of the people, if they did not express the clear opinion which they have formed, on considering the whole matter, that the said charge of partiality is entirely unfounded and calumnious; and that the delay of which Mr Swinton complained was entirely owing to the well known state of Lord Meadowbank's health, for several years before his death, which had necessarily occasioned as great, and even a greater delay in many other causes: But the Lords considering that Mr Swinton did not intend that these letters should go beyond the few persons to whom they were confidentially addressed; that they were published by Messrs Taylors, not only with-

1818. out Mr Swinton's concurrence, but in spite of his remonstrance to the contrary; and that there is no reason to believe that Mr Swinton intended them to come to the knowledge, or to hurt the feelings of Lord Meadowbank, or to bring any public suspicion on the administration of justice in this Court, do not think it necessary to inflict any other punishment on Mr Swinton than a public reprimand for his said conduct; and he is accordingly publicly reprimanded by the Lord President: And the Lords direct and ordain this their sentence to be recorded in the books of Sederunt.

(Signed)

C. HOPE, I. P. D.

10th February 1818.

Act authorising Magistrates of Nairn to remove Prisoners from Jail of Nairn to Jail of Forres, &c.

Unto the Right Honourable the Lords of Council and Session,

The Petition of the Magistrates and Town Council of the burgh of Nairn;

Humbly Sheweth,

THAT the prison of the town of Nairn being incommodious and insufficient, the petitioners, having obtained aid from the county, propose, with the leave of the Court, to take it down, and build a new one on the same spot of ground, with all possible expedition; and they trust that they will be able to have the new jail finished within a year from the date of the authority given for pulling down the old one. There is at present only one person confined in the prison, who is in the course of application for a *cessio bonorum*; but until, or unless that shall be obtained, it will be necessary that authority shall be given to transport him to some other prison; and the like must be necessary, in case any other prisoner be lodged there before your Lordships shall have given deliverance on this petition. In respect to future prisoners, from the time of your Lordships deliverance until the new prison shall be erected, it is humbly submitted that your Lordships may grant authority for their being committed as if there was no prison in the town of Nairn; that is to say, for prisoners belonging to Nairnshire being committed to the jail of Forres, the nearest prison in the united sheriffdoms of Elgin and Nairn; the burgh of Nairn paying, as is reasonable, all the expence caused by transporting the prisoners to Forres, and all other expences incurred in their maintenance, or otherwise, just as if they were confined in Nairn.

The petitioners deem it their duty to mention, that they lately presented an application for the transport of prisoners from
Nairn

Nairn to the jail of Inverness, on account of the insufficiency of 1818. the jail of Nairn, which was opposed by the magistrates of Inverness, and was refused; but that was of a special nature quite different from the present, which is of a kind ordinary and recognised. It is sufficient for the petitioners to mention two cases recorded in the books of sederunt.

The first is the case of the burgh of Brechin, which is entered in the sederunt book, 10th March 1789. The second is the case of the burgh of Selkirk, which is entered in the sederunt book on 11th July 1804.

The arrangement adopted in those two cases, your Lordships will observe, was somewhat different. In the case of Selkirk, there was no other jail in the county; and, therefore, warrant was granted to the sheriff and magistrates to transport prisoners to Jedburgh. In the case of Brechin, there were two other jails in the county; and, therefore, the finding was, that imprisonments were to be made as if there were no jail in the town of Brechin. In this case, there is no other jail in Nairnshire; but Nairnshire is united to Elginshire, and both together form one sheriffship. It is thought, therefore, that the finding in the case of Brechin may be adopted; but, if there be any doubt about that, your Lordships certainly may adopt the plan followed in the case of Selkirk, taking the jail of Forres as the nearest jail, just as the jail of Jedburgh was taken.

May it therefore please your Lordships to grant warrant and order to the petitioners, and the sheriff of the counties of Nairn and Elgin, to transmit the prisoner or prisoners presently in the jail of Nairn to the jail of Forres; and to find that, for the space of one year from the date of your Lordships deliverance, imprisonments in the united sheriffships of Nairn and Elgin shall be made as if there were no prison in the town of Nairn, and as if the jail of Forres was the jail of the county of Nairn: Or otherwise, to grant warrant to the petitioners and the sheriff to transport to the jail of Forres such prisoners as may be presented to them within the time above mentioned; and to order this petition, with your Lordships deliverance thereon, to be engrossed in the books of sederunt.

According to justice, &c.

(Signed)

J. H. M'KENZIE.

Edinburgh, 10th February 1818.—The Lords, having considered this petition, grant warrant to the petitioners, and the sheriff of the counties of Nairn and Elgin, to transport the prisoner or prisoners presently in the jail of Nairn to the jail of Forres; and authorise the magistrates of Forres, and their jailor, to receive and detain them accordingly: And further, find, that, for the space

1818. space of one year from this date, all imprisonments in the united sheriffships of Nairn and Elgin shall be made in the jail of Forres, as if there were no prison in the town of Nairn, and as if the jail of Forres was the jail of the county of Nairn, and decern; and dispense with the minute-book; and also ordain this petition and deliverance to be recorded in the books of sederunt.
(Signed) C. HOPE, I. P. D.

5th March 1818.

Act declaring the Castle or Palace of Dornock a Legal Prison in the meantime.

Unto the Right Honourable the Lords of Council and Session,

The Petition of the Most Noble George Granville, Marquis of the County of Stafford, K. G. Provost, Kenneth Mackay, Hugh Houston, William Young, and Alexander Sutherland, Esquires, Bailies of the Royal Burgh of Dornock, for themselves, and the remanent Members of Council of the said Burgh;

Humbly Sheweth,

THAT, at a general meeting of the heritors, freeholders, commissioners of supply, and justices of the peace of the county of Sutherland, and of the magistrates and council of the burgh of Dornock, held on the 13th November 1813, the court-house and jail of the burgh were declared to be in a ruinous state: That, at the said meeting, Mr Young, factor for the Marquis of Stafford, stated, that he was authorised by the Noble Marquis to say, that, to save the county and burgh the expence of building a new court-house and jail, he was willing to give accommodation in the ancient Castle or Palace of Dornock (which is situated within the bounds of the said burgh), at least as much thereof as would be sufficient for all the purposes required; and that the Marquis had already fitted up in that Castle, a court-room, a record-room, two rooms for civil debtors, and two cells for criminals. The meeting were duly sensible of the liberality of his Lordship's offer; and, after inspecting the apartments in the Castle, were satisfied that it would completely answer, and supersede the necessity of building a new court-house and jail, and agreed to pay therefor any rent his Lordship might think proper. That the petitioners, however, before appropriating this building to the purpose of a court-house and jail, are anxious to have the sanction and approbation of your Lordships for their doing so.

That there are no prisoners either for debt or criminal offences in the prison of Dornock at present, but in the event of any being presented to the magistrates before the extract of the deliverance

ance upon this petition, it will be necessary that the petitioners have the authority of your Lordships to remove such prisoners to the proposed new prison. 1818.

The petitioners have also humbly to crave the authority of your Lordships for removing the cross of the burgh from its present site opposite to the old Council-house, to the front of the castle of Dornock, now to be appropriated for the Court-house and Jail.

May it therefore please your Lordships to take the premises into your consideration, and to authorise the petitioners to accept of the offer made by the Marquis of Stafford, and to use the apartments fitted up by him in the Castle of Dornock, as a Court-house and Jail, in all time coming; and further, to authorise the petitioners to remove such prisoners as may be in the old jail, to this proposed new one; and also to authorise the petitioners to remove the Cross of the burgh from its present site to the front of the Castle.

According to justice, &c.

(Signed) CHA. ROSS.

Edinburgh, 1st July 1814.—The Lords having heard this petition, before answer, appoint the parties to give in a minute explaining whether any regular contract or other deed has been already executed by the proprietor of the new proposed jail, for vesting it permanently in the petitioners, the Magistrates and Councillors of the burgh of Dornock, or when, and by whom, such contract or deed is to be executed.

(Signed) D. BOYLE, I. P. D.

Minute for the Most Noble George Granville, Marquis of the county of Stafford, K. G. provost, Kenneth Mackay, Esquire, and others, bailies of the Royal Burgh of Dornock, for themselves, and the remanent members of Council of said burgh;

CLERK, for the petitioners, resumed consideration of the petition presented on the 30th June 1814, with the prefixed interlocutor pronounced thereon, and minute produced with said petition.

He also produced a minute of Council, 4th October 1814, by which the Magistrates of the burgh, on account of the urgency of the case, had resolved that the new Court-room and jail should be used as such. In obedience to the appointment of the Court, he begged leave, in the name of the Provost, Magistrates, and Council of Dornock, to state that as yet no regular contract, or other deed, had been executed by the proprietor of the new jail,

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1818. for vesting the same permanently in them, and that a difficulty here presented itself, in consequence of the property being entailed. The ancient Castle or Palace of Dornoch formed part of the Earldom of Sutherland, belonging to the Marchioness of Stafford, and which is entailed (though the deed of entail never has been recorded), and therefore she feels herself precluded from disposing these premises inalienably to the Magistrates of Dornoch, but is willing, with consent of the Marquis of Stafford, to grant a lease under the act of 10 Geo. III. cap. 51, to the Magistrates, for ninety-nine years, if the Court shall consider this to be a sufficient title. It is also necessary to state, that not only are these premises now completely fitted up as a Court-house for the meetings of the county and burgh, but it is used as a jail both for debtors and criminals, and is the only place in the burgh fit for the purpose. It may be added that there is no other proprietor except the Marchioness of Stafford in the immediate neighbourhood of the town, who could in any way give this accommodation.

The magistracy are aware that, according to the usual practice, the Court might think it necessary, prior to declaring this a legal jail, to have the report of one or more medical persons, with regard to the adequacy for the purpose of the accommodation in question; but he humbly hoped that, under existing circumstances, and in the present advanced state of the Session, the Court might see it advisable to dispense with such report, and to receive the assurance at the bar from the Sheriff-depute of the county, that the proposed accommodation is in a fit condition for the reception both of debtors and criminals. But, if the Court should hesitate to adopt this proceeding, they are intreated by the petitioners, either to declare the proposed accommodations as a legal jail, *ad interim*, or to authorise the Magistrates or Sheriff-depute or Substitute of the county, to remove to the jail of Tain, being the nearest jail to Dornoch, any debtors or criminals who may be in the jail of Dornoch; and, till a jail shall be established in the town of Dornoch, further to authorise and empower the said Magistrates, Sheriff-depute or Substitute, and Justices of the Peace within the county of Sutherland, and other officers of the law, to transmit to the said jail of Tain the persons of all debtors and criminals; and, further, to direct the Magistrates of Tain to receive and detain such prisoners, in the same way and manner as if they had been apprehended in the county of Ross, within which the jail of Tain is situated.

Edinburgh, 5th March 1818.—The Lords having resumed consideration of the petition mentioned in the preceding minute, and advised the same, with what is stated in the minute, and having heard a verbal report by the Sheriff-depute of the county of Sutherland, upon the nature of the accommodation proposed, and and declare, that the apartments in the ancient castle or palace of Dornoch, proposed for the confinement of debtors, is in the meantime a legal prison; and authorise the removal of the debtors,

debtors, if any, from the old jail of Dornoch to the said apartments, and decern accordingly; but ordain the petitioners, against the third sederunt day in July next, to produce a proper certificate, or certificates, of one or more medical gentlemen, as to the salubrity of these apartments; and supersede in the meantime the farther consideration of this petition; and ordain the same, with this deliverance, to be recorded in the books of Sederunt, and dispense with the minute-book.

(Signed) WILLIAM MILLER, *I. P. D.*
6th March 1818.

11th March 1818.

Warrant against James Blair Hunter, charged with being guilty of falsehood and wilful imposition.

THIS day, the First Division of the Court, upon advising the petition and complaint of his Majesty's Advocate against James Blair Hunter, writer in Edinburgh, pronounced the following interlocutor:—The Lords having resumed consideration of this complaint, with the execution of service of the same; and the within James Blair Hunter not having compeared, though called thrice by a macer at the door of the Inner-House, and also thrice at the door of the Outer-House to the Parliament Close; they therefore grant warrant for letters of horning, directed to messengers, to command and charge the said James Blair Hunter personally, or at his dwelling-place, if within Scotland at the time, and if furth thereof, at the market-cross of Edinburgh, pier and shore of Leith, to compear before the Lords upon the eighth sederunt day of May next, in the hour of cause, with continuation of days, to answer to the matters contained in the said petition and complaint, under the pain of rebellion, and of putting him to the horn; wherein if he failzie, the said day being by-gone, that the said messenger denounce him his Majesty's rebel, and put him to the horn, and to escheat and inbring all his moveable goods and gear for his Majesty's use, for his contempt and disobedience; and ordain this warrant to be insert in the books of sederunt.

(Signed) C. HOPE, *I. P. D.*

11th

1818.

11th March 1818.

Act appointing interim Bailies of the Burgh of Aberdeen.

Unto the Right Honourable the Lords of Council and Session,

The Petition of George Still, merchant in Aberdeen, Robert Abercrombie, merchant there, Alexander Bannerman, merchant there, Charles Bannerman, merchant there, John Booth, junior, merchant there, Alexander Dingwall, merchant there, John Ewen, merchant there, Alexander Forbes, merchant there, James Forbes, merchant there, John Forbes, merchant there, William Forbes, merchant there, James Gordon, merchant there, Robert Harvey of Bras, James Harthill, merchant in Aberdeen, George Innes, druggist there, George M'Kenzie, merchant there, James Mellis, merchant there, David Milne, merchant in Aberdeen, John Rae, merchant there, Alexander Rhind, merchant there, John Elphinstone, ropemaker there, and William Mortimer, book-binder there, all burgesses of guild in Aberdeen; and James Cobban, wright in Aberdeen, John Dunn, tailor there, Adam Low, baker there, George Booth, watchmaker there, Francis Tough, shoemaker there, James Collie, weaver there, William Douglas, shoemaker there, Peter Taylor, shoemaker there, James Cantley, tailor there, John Innes, tailor there, all members of the seven incorporated trades of Aberdeen;

Humbly Sheweth,

THAT the petitioners are under the necessity of applying to your Lordships for some remedy in the extraordinary state of difficulty and embarrassment in which they are placed by the events which have recently taken place in the city of Aberdeen, and by the numerous and pressing demands of public business, which there is no legal authority to discharge. That your Lordships may judge of the circumstances under which the petitioners have been advised to make this application for the interposition of the Court, they beg leave to submit the following statement of facts:—

It has been well known for a considerable time past, that the finances of the city of Aberdeen were in a very labouring and involved state, in consequence of the immense sums that have been borrowed and expended in the measures connected with the alterations on the streets and harbour, which were carried on upon a scale of extraordinary magnitude. The petitioners do not mean to inquire whether these measures, or the debts contracted with a view to them, were expedient or inexpedient, or to enter into any of the legal questions thence arising, and which are so much agitated

agitated by the different parties whose interests are involved in the discussion ; it is sufficient for their present purpose to mention, that, in February last, the treasurer of the city, finding the difficulties of his situation increasing from the great accumulation of interest, expences, and new and pressing demands far beyond the utmost extent of his means, gave notice that he was to stop farther payments, and made an open declaration of the town's insolvency. 1818.

This declaration brought matters to an immediate crisis, and was followed by various meetings among the numerous body of individuals and managers of charitable foundations and public institutions, who were the principal creditors of the town ; when, upon investigation, it appeared that the debts due by the treasurer amounted to no less than L.230,000, and that he was not possessed of wherewithal to pay the interest of this sum, even at the diminished rate of three and a half per cent. Under these circumstances, it was at last resolved by the Magistrates and Council, that the treasurer should divest himself of the whole property and effects of every description belonging to the town, in favour of trustees for behoof of their creditors ; and, accordingly, in pursuance of this resolution, the treasurer, of this date (March 3. 1817), executed a trust disposition and conveyance, whereby, in name and by the authority of the Magistrates and Council, he alienated and disposed, in favour of twenty-one gentlemen, as trustees for the creditors of the city, its whole lands, fishings, houses, buildings for public and other purposes, and generally the whole property and effects of every denomination, belonging to the community, or to which they had or could pretend right. No reservation was made of the means necessary to support the large establishments of the city, or to carry on its essential business, or discharge its public duties. But a total and absolute alienation of every subject to which the community could lay claim was accomplished by this instrument, which stripped the corporation of every shilling, and left the Magistrates and Council without the means or possibility of exercising their most ordinary functions.

This was the situation of matters at last Michaelmas, when the Magistrates and Council proceeded to the business of a new election, as if the affairs of the burgh had been going on in the regular course: But the total want of the means necessary for carrying on the public business and functions of the magistracy, and the insuperable difficulties which thus, and in many other ways, seemed to preclude the possibility of any useful or satisfactory discharge of these duties, had long determined many of the respectable burgesses, who were likely to be called to these offices, to refuse acceptance, and to decline all interference with, or management of the town's affairs. The sentiments of these persons on this subject were familiarly known, and, in fact, matter of notoriety ; but many of them were nevertheless chosen by the electors to fill the offices of magistrates and councillors.

The petitioners are informed, that the election made upon this occasion,

1818. occasion is exposed to fundamental and fatal objections ; and they have had access to see a petition and complaint, founded upon the statute, which has been presented to your Lordships by several constituent members of the meeting, who have distinctly challenged the proceedings on various grounds, and conclude to have the whole reduced and set aside, as utterly illegal, and null and void. The petitioners, of course, do not enter into the validity of the election, or the merits of the proceedings, in one shape or another ; and it is enough for them to state the fact, that, out of 19 persons chosen as magistrates, councillors, or office-bearers (and which number is necessary to constitute a legal council), only six have been found to accept their offices ; the remaining 13 having, in positive terms, refused acceptance, and declined all interference with, or management of, the town's affairs. Upon this subject, the petitioners beg leave to refer to the petition and complaint presented against the election, from which it appears, that, on the 24th September last, the following persons were elected magistrates and councillors, viz.

Charles Forbes, Esq. of Auchmedden, M. P. provost.

Robert Garden, merchant in Aberdeen,	} bailies.
David Chalmers, printer there,	
James Milne, merchant there,	
Robert Brown, merchant there,	

Alexander Dingwall Fordyce, merchant there, dean of guild.

John Whyte, merchant there, treasurer.

William Johnston, merchant there, master of shore works.

Arthur Gibbon, merchant there, master of kirk and bridge works.

William Catto, merchant there, master of mortifications.

James Andrew Sandilands, merchant there, master of guild-brethren's hospital.

John Garrioch, merchant there,	} merchant councillors.
Alexander Pirie, merchant there,	
Alexander Low, merchant there,	
John Smith, youngest, merchant there,	
Alexander Fraser, merchant there, and	
William Read, merchant there,	

Deacon John Dunn, tailor there, and	} trades councillors.
Deacon Adam Low, baker there,	

Of these nineteen persons chosen as magistrates, office-bearers, and councillors, thirteen have refused to accept of their offices, or to interfere in any respect with the management of the town's affairs ; so that, in place of the full number necessary to compose a legal council, there can only be found six to accept of their offices, viz.

Two old bailies, who were continued *ex officio*,

One new bailie,

The master of shore works, and

Two councillors, who remained *ex officio* ; the one the late provost, and the other the late dean of guild.

But,

But, on the other hand, there are wanting to complete the council,— 1818.

The provost, or chief magistrate,
 One bailie,
 The dean of guild,
 The treasurer,
 The master of kirk and bridge works,
 The master of mortifications,
 The master of guild brethren's hospital,
 Four merchant councillors, and
 Two trades councillors.

Thus, it will be observed, that the number of those who have accepted, falls short of a legal quorum by no less than four members; and that, of consequence, they are utterly incapable of acting in any one character, or of exercising any of the functions, judicial or administrative, of magistrates, office-bearers, or councillors. The burgh is, in fact, disfranchised to all intents and purposes, being without a legal magistracy or council, and divested of all its property and funds.

In this situation, the three bailies, the master of shore works, and the two councillors, who have accepted of their offices, are, notwithstanding, so conscious of their total want of power or legal authority, that they have applied by petition to the King in Council, praying for his Majesty's warrant to enable them to officiate *ad interim*. But it is needless to observe, that such an application is altogether unprecedented and incompetent; that it is *ultra vires* of the Crown to make any *interim* nomination of magistrates or councillors, or to regulate, in any respect, the ordinary administration of the town's affairs; and that, though the Crown is accustomed to grant warrant for a poll-election, where a burgh is left without a legal magistracy or council, and where this is declared by a judicial sentence, there is no power in the Constitution which can sanction or authorise an occasional or temporary magistracy, except the *nobile officium* of this Court.

In the meantime, your Lordships will be pleased to attend to the situation in which the extensive business and important concerns of this great corporation are placed. In many of the charitable institutions of the city, which are upon a great scale, and require a continual and daily superintendence, the magistrates and council are almost the sole managers, as is the case with respect to Gordon's Hospital, where a very great number of children are, in terms of the charter and deeds of gift, maintained, clothed, educated, and settled in the world. But, though the daily course of business in so great an establishment must obviously create incessant and most urgent demands upon the time and attention of the managers, every thing is at a stand; and there being no legal powers of management, the most pressing and important concerns are lying over neglected.

In like manner, the public schools within the city are in a similar

1818. ~~similar state of neglect ; and, if the whole were to become vacant,~~
 there is no power nor authority by which the loss could be supplied. In point of fact, the public school for teaching writing and arithmetic has actually become vacant ; and though the late teacher, who is now a clergyman, has been prevailed upon to continue in the meantime, it is obvious that this is a most precarious remedy, upon which no certain reliance can be placed. The same is true with respect to every public charge in the city, which is in the gift of the magistrates and council.

No power exists by which burgesses can be admitted, or illegal traders prosecuted.

There is no authority to appoint taxers or stentmasters to collect the King's subsidy now due.

The weights and measures are without regulation, from the want of a dean of guild.

The administration of justice is, and of course must be, stopped in all its branches.

The guildry funds, to the amount of £25,000, having been in the hands of the dean of guild, were by him lent to the treasurer, and are involved in the consequences of the town's insolvency. But for this sum the dean of guild has a claim against the treasurer or the trustees, and either has, or ought to have, drawn such dividend as the trust funds have yielded. At present, however, there is no person with legal authority to look after this large sum, or to pay the annuities to decayed burgesses.

No infeftment can be taken within burgh, nor any title to heritage completed, as accords of law.

Under these circumstances, when the public business, in which the petitioners and the inhabitants at large have so deep an interest, is, in all its departments, necessarily lying over neglected, and when there is confessedly no legal power nor authority by which these important duties can be discharged, the petitioners have been advised to apply to your Lordships, as is usual in similar cases, in order that you may *ex nobili officio* grant warrant to, and authorise some proper persons to officiate *ad interim*. The competency of such an application does not seem to admit of dispute, since your Lordships are accustomed to authorise temporary appointments of this kind in all cases where there is a want of legal magistracy and council ; and that such is the case in the present instance, is in every view indisputable. For, whether the election which is now under challenge was, as originally made, legal or illegal, still it is undeniable, that there is no magistracy nor council in existence, because it is admitted, that, out of nineteen, the proper constituent number, all but six have, in positive terms, declined to accept their offices. Whatever, therefore, may be the result of the question regarding the validity of the last election, the burgh must, at all events, be left without legal functionaries ; and as the necessity is most urgent for some immediate appointment under judicial authority, it is hoped that your Lordships will see cause to grant the prayer of this petition.

May

May it therefore please your Lordships to appoint some proper person or persons to be Bailies and Dean of Guild for the said city, for the special purposes of receiving resignations, or giving seisins in any lands held burgage of the burgh of Aberdeen, appointing taxers or stent-masters to collect the King's subsidy, regulating the weights and measures within burgh, and uplifting the dividends due upon the guildry funds, and paying the annuities to decayed guild brethren, managing the affairs of the different charitable foundations in which the Magistrates and Council have the sole or joint power of administration, and taking charge in the meantime of such funds and patrimonial interest as fall under the management of the different office bearers of the burgh; or to give such other redress in the premises as to your Lordships shall seem proper. 1818.

According to justice, &c.

(Signed) W. BUCHANAN.

Edinburgh, 26th November 1817.—The Lords grant warrant for serving this petition on the whole persons who at Michaelmas last were elected magistrates and councillors of Aberdeen, and that in common form: Ordain them to give in answers thereto within fifteen days after such service, with certification, and dispense with the minute book.

(Signed) D. BOYLE, *I. P. D.*

Edinburgh, 11th March 1818.—The Lords having considered the said petition, with answers thereto, replies and duplies, and the practice of the Court on similar occasions, with the judgment reducing and setting aside the election of councillors, magistrates, and office-bearers of the city of Aberdeen, they nominate and appoint Robert Garden, David Chalmers, and James Milne, Esquires, and, failing their acceptance, Alexander Duncan and Charles Walker, Esquires, to be bailies of the said city *ad interim*, until the magistracy may be restored, and that for the special purpose of receiving resignations or giving sasine in any lands held burgage; also appoint Robert Abercrombie, Esquire, merchant in Aberdeen, to take charge in the meantime of the funds or patrimonial interest of the city, in the same way as was before the said election competent to the treasurer thereof, he finding caution, before extract, for his intromissions with the funds; also appoint Alexander Dingwall, Esquire, *ad interim* master of kirk and bridge works, John Forbes, Esquire, *ad interim* master of mortifications, Alexander Forbes, Esquire, *ad interim* master of Guild Brethren's Hospital, and William Johnston, Esquire, and, failing his acceptance, Alexander Rhind, Esquire, *ad interim* master of shore works, they severally finding caution, before extract, for their intromissions in virtue of said appointment; and, lastly,
D d appoint

1818.

appoint Alexander Bannerman, Esquire, *ad interim* dean of guild of the said city, superseding extract till the first box-day in the ensuing vacation ; and also, in case a reclaiming petition shall then be presented, complaining of the judgment reducing the election, superseding extract farther till the same shall be disposed of ; and ordain the said petition, with this deliverance thereon, to be recorded in the books of Sederunt.

(Signed) WILLIAM MILLER, *I. P. D.*

19th May 1818.

Act appointing Interim Managers of burgh of Aberdeen, pronounced on advising petition by Robert Garden, and others, burgesses of Aberdeen, against the foregoing act.

THE Lords having considered the said petition, with a minute for George Still, and others, nominate and appoint Robert Garden, David Chalmers, and James Milne, Esquires, and the survivors of them, and failing the acceptance of any two of them, Alexander Duncan and Charles Walker, Esquires, to act as managers of the city of Aberdeen, and of the common good thereof, and to set the said common good yearly from year to year, or for three years certain, but for no longer space, and to administrate on the part of the burgh the affairs of the works, mortifications, and hospitals, and to controul the management of the factors or managers of them, they being obliged, before entering on their offices, to find caution for the satisfaction of the managers of the burgh ; and also nominate and appoint the said managers of the burgh to act as bailies and magistrates, in taking care of the police of the said city, and in receiving and discharging, and awarding aliment to prisoners under the act 1696, commonly called the Act of Grace, or otherwise, and to exercise the whole powers of the said act, and also for receiving resignations and granting infeftments thereon, and on the cognition of heirs *more burgi* in burgage tenements and lands held of the burgh, and also for regulating the assize of bread, weights and measures, and superintending the public markets. Farther, the Lords nominate and appoint Robert Abercrombie, Esquire, merchant in Aberdeen, to act as treasurer of the said city, he finding caution to the satisfaction of the said managers for his intromissions with the funds, before entering on his office. They also authorise and empower Alexander Bannerman, Esquire, to act as dean of guild of the said city. And, lastly, they nominate and appoint Alexander Dingwall, Esquire, to act as master of kirk and bridge works, John Forbes, Esquire, to act as master of mortifications, Alexander Forbes, Esquire, to act as master of Guild Brethren's Hospital, and William Johnston, Esquire, and, failing his acceptance, Alexander

ander Rhind, Esquire, to act as master of shore works; and declare that the nominations made by this deliverance shall endure and continue for the space of two years from this date, unless the same shall before that time be recalled or altered by the Court, or unless the corporation of the city of Aberdeen shall be restored to a legal magistracy, by poll election, or otherwise, and decern. And, with these variations, adhere to the interlocutor brought under review; and appoint this deliverance to be recorded in the books of Sederunt, and dispense with the minute-book. 1818.

(Signed) D. BOYLE, I. P. D.

16th June 1818.

Appointment of interim Sheriff-Depute of Argyle.

Unto the Right Honourable the Lords of Council and Session,

The Petition of John Campbell, Sheriff-Clerk of Argyleshire;

Humbly Sheweth,

THAT, in consequence of the death of Sir Trafford Campbell of Ashnish, Sheriff-depute of the shire of Argyle, and the dissolution of Parliament, it becomes necessary that your Lordships appoint an interim Sheriff-depute for the said county, until his Majesty shall be pleased to appoint some person to that office.

May it therefore please your Lordships to nominate and appoint such person as you may think fit to act as interim Sheriff-depute of the county of Argyle, with power to execute the writs for election, as also to hold Courts from time to time in the ordinary form, and to execute all acts or jurisdiction competent to the said office, until such time as his Majesty shall appoint some person to be Sheriff-depute of the said county, or until further orders from your Lordships, and with power also to him to appoint his own substitutes in the ordinary form, and to dispense with the minute-book.

According to justice, &c.

(Signed) JOHN CONNELL.

Edinburgh, 16th June 1818.—The Lords having considered this petition, they appoint Mr Walter Scott, advocate, to act as interim Sheriff-depute of the county of Argyle, with the powers, and for the purposes prayed for; and ordain this petition and deliverance to

1818. to be inserted in the books of Sederunt, and dispense with the minute-book.

(Signed) C. HOPE, I. P. D.

Edinburgh, 18th June 1818.

Appointment of Interim Sheriff-Depute of Wigton.

Unto the Right Honourable the Lords of Council and Session,

The Petition of George Agnew, Sheriff-Clerk of Wigtonshire ;

Humbly Sheweth,

THAT, in consequence of the resignation of John Maitland of Eccles, Esquire, sheriff-depute of the county of Wigton, and the dissolution of Parliament, it becomes necessary that your Lordships appoint an interim sheriff-depute for the said county, until his Majesty shall be pleased to appoint some person to that office.

May it therefore please your Lordships to nominate and appoint such person as you may think fit to act as interim sheriff-depute of the county of Wigton, with power to execute the writs for election ; as also to hold courts from time to time in the ordinary form, and to execute all acts of jurisdiction competent to the said office, until such time as his Majesty shall appoint some person to be sheriff-depute of the said county, or until farther orders from your Lordships ; and with power also to him to appoint his own substitutes in the ordinary form, and to dispense with the minute-book.

According to justice, &c.

(Signed) ALEX. MACONOCHE.

Edinburgh, 18th June 1818.—The Lords having advised this petition, they nominate and appoint Mr Archibald Bell, advocate, to act as interim sheriff-depute of the county of Wigton, with the powers, and for the purposes prayed for ; ordain this petition, and deliverance thereon, to be inserted in the books of sederunt, and dispense with the minute-book.

(Signed) C. HOPE, I. P. D.

23d June 1818. 1818.

Sentence against James Blair Hunter, for Falsehood,
Wilful Imposition, &c.

THIS day, the First Division of the Court, upon advising the petition and complaint of his Majesty's Advocate against James Blair Hunter, writer in Edinburgh, with the answers thereto, pronounced the following interlocutor:—*Edinburgh, 23d June 1818.*—The Lords having resumed consideration of the said petition and complaint, and advised the same with the answers thereto, the said James Blair Hunter being personally present, they find that the said petition and complaint is sufficiently instructed, and that the two charges of falsehood made therein, are proven by the admissions contained in the said answers; therefore, find that the said James Blair Hunter is unfit and unworthy to exercise the office of an agent or solicitor, or to act and officiate as a writer or practitioner of business in this Court; deprive, decern and declare him to be deprived of the said office of agent or solicitor, and of all rights, privileges, and capacities pertaining to the same; and declare him to be incapable in all time to come of acting as a writer or practitioner of business in this Court; and appoint this sentence to be inserted and recorded in the books of sederunt.

(Signed) C. HOPE, I. P. D.

19th December 1818.

Act appointing Interim Managers of Burgh of Inverness.

Unto the Right Honourable the Lords of Council and Session,

The Petition of James Robertson, Alexander Mackenzie, Lewis Grant, Alexander Anderson, Alexander Smith, John Simpson, Alexander Cuming, James Grant, Thomas Gilzean, Farquhar Macdonald, John Jamieson, Charles Jamieson, John Mackenzie, William Ross, Hugh Innes, Robert Smith, John Fraser, Esquires, and Donald Mactavish, Finlay Fraser, and Andrew Williamson, who were elected Provost, Bailies, Dean of Guild, Treasurer, and Merchants and Trades Councillors of the Burgh of Inverness at Michaelmas 1817 and 1818, and are Burgesses of Guild and of Craft of the said Burgh;

E e

Humbly

1818.

*Humbly Sheweth,*

THAT a petition and complaint was some time ago presented to your Lordships by James Lyon, merchant in Inverness, and a constituent member of the meeting which made choice of Magistrates and Councillors for that burgh at Michaelmas last, complaining of the proceedings of the majority upon that occasion, and concluding that the election should be adjudged to be void and null, and should be reduced and set aside in terms of the statute in that behalf. The grounds stated in support of these conclusions resolved into an allegation, that certain informalities had been committed in the course of the nomination of councillors; and, particularly, that certain persons chosen as members of council were not legally qualified in terms of the set, as not being *trafficking merchants* or maltmen.

In this complaint, appearance was made for the present petitioners, who contended, in the 1st place, That the persons in question were qualified as trafficking merchants or maltmen; and, 2^{dly}, That, at all events, this supposed requisite of the sett had been abrogated by usage, and had fallen into desuetude. Upon this, your Lordships holding this last averment to be relevant, and finding the statements of the parties respecting the usage to be directly opposite to each other, appointed them to state these averments in the precise form of condescendences and answers, in terms of the Act of Sederunt, with the view of an issue before the Jury Court. Upon these papers, an issue applicable to the subject in dispute having been framed, your Lordships appointed it to be sent to the Jury Court to be there tried by a jury.

In pursuance of this appointment, the present petitioners, who were declared to stand as pursuers before the Jury Court, gave notice, in the month of July last, for the trial of this issue at Inverness, where all the means of information and sources of evidence were to be sought for and examined. But after a variety of proceedings, it was at last finally determined by the Jury Court that the trial should take place at Edinburgh. The petitioners, though they made every possible exertion, found it totally impossible to proceed with the trial at Edinburgh, on account of the prodigious mass of records which required to be transmitted from Inverness to be laid before the jury, and the vast expence of bringing from such a distance, at this period of the year, so great a number of witnesses, besides many other serious inconveniences.

In these circumstances, the petitioners were constrained to abandon the case in the Jury Court; and having given regular notice to this effect, the Jury Court, upon hearing counsel, and after the most mature deliberation, made the following order: (December 11. 1818) ‘It appearing to this Court that the pursuers in this cause have abandoned their suit, and do not mean to try the issue: It is ordered, under the authority of the 29th section

‘ section of the Act of Sederunt of the 9th December 1815, that 1818
 ‘ the defender do apply to the Second Division of the Court of
 ‘ Session, to pronounce an interlocutor, holding the other party
 ‘ as confessed, and thereupon to give judgment accordingly ; and
 ‘ direct the clerk to transmit the process back to the clerk of the
 ‘ Court of Session for that purpose.’

In terms of this order, the process was transmitted back to this Court ; and the case having been put to the roll, your Lordships were pleased (December 18. 1818) to pronounce judgment, decerning in terms of Mr Lyon’s complaint against the election made at Michaelmas 1817, and also decerning in conformity with the reductive conclusions of another complaint preferred by him against the election of magistrates and councillors which took place for this burgh at Michaelmas 1818. The voidance of these elections, and consequent disfranchisement of the burgh, leave it without any legal magistracy or council ; and as it is of the most material consequence that this defect should be supplied with the least possible delay, the petitioners trust they will appear excusable to your Lordships for their anxiety on this subject. The public business at present in dependence is of the most pressing and important nature ; and, in order to prevent the many evils incident to an interruption and stagnation of it, the petitioners have been advised to present this application to your Lordships for the appointment of interim managers.

The competency of this application does not admit of dispute ; and, on this head, it is only necessary to refer to the very recent cases of Montrose and Aberdeen, in both of which the extraordinary remedy of an interim appointment of persons to act as managers and office-bearers was applied by your Lordships. Of their own fitness for these offices, it would not become the petitioners to speak ; but they may be permitted to mention, what will not even be disputed by the complainer, that, during the whole period of their continuance in office, they have enjoyed the entire confidence of the community, not even excepting Mr Lyon, who, in a communication now in process (November 10. 1817), stated, ‘ I feel no dissatisfaction with any one of you as
 ‘ public officers, nor do I entertain any sentiments towards any
 ‘ of your number, but sentiments of friendship and respect.’ And again, Mr Lyon recommends an alteration in the sett of the burgh to the provost, ‘ and those respectable and independent
 ‘ magistrates who govern with you.’ And on a very late occasion (September 22. 1818), Mr Lyon concurred in an unanimous vote of thanks to the magistrates ‘ for the *great service* done by
 ‘ them in their several and respective capacities.’

According to the sett and constitution of the burgh of Inverness, the active government of the town is vested in seven office-bearers, a provost, four bailies, a dean of guild, and a treasurer. The petitioners will be enabled to obtain a continuation of the local jurisdiction, civil and criminal, by an application to the sheriff-depute of the county, for the appointment of a proper person
 to

1818. to act as sheriff-substitute within the bounds and limits of the jurisdictions of the burgh; and they have accordingly presented such an application to him. But with respect to the other appointments above mentioned, it is necessary to apply to your Lordships.

May it therefore please your Lordships to appoint the said James Robertson, Alexander M'Kenzie, Alexander Anderson, Lewis Grant, and Alexander Smith, and the survivors and acceptors of them, or such other persons as your Lordships may think proper, to act as managers of said burgh, and to administrate on the part of the burgh the hail affairs thereof, including the common good, and to set the said common good yearly, from year to year, and particularly to administer on the part of the burgh the affairs of the Works, Mortification, Academy, and Infirmary, and Charity Schools; and to raise, insist in, and pursue such actions as are necessary for the interest of the burgh, and of these institutions; and also to nominate and appoint the said managers to act as bailies and magistrates in taking care of the police of the said city, and in receiving, detaining, discharging, and awarding aliment to prisoners under the act 1696, commonly called the Act of Grace, or otherwise, and to exercise the whole powers of the said act; and also for receiving resignations, and granting infeftments thereon, and on the cognition of heirs *more burgi*, in burgage tenements and lands held of the burgh; and also for regulating the assize of bread, weights, and measures, and superintending the public markets; and farther, to nominate and appoint the said Alexander Cuming, whom failing, the said John Jamieson, or such other person as your Lordships may think proper, to act as treasurer of the said burgh; and also to authorise and empower the said John Simpson, whom failing, the said John M'Kenzie, or such other person as your Lordships may think proper, to act as dean of guild of the said burgh; and farther, to find that the managers and other officers of the said burgh shall exercise their several offices, according to use and wont, in all respects; and to declare that the nominations to be made by your Lordships shall endure for the space of two years, unless the same shall, before that period, be recalled or altered by your Lordships, or unless the incorporation of the burgh of Inverness shall be restored to a legal magistracy before that period; and to grant warrant for interim extract, and to dispense with the Minute-Book; or otherwise, to do in the premises as to your Lordships may seem proper.

According to justice, &c.

(Signed)

THOS. THOMSON.

Edinburgh,

Edinburgh, 19th December 1818.—The Lords having considered 1818. this petition, and heard parties thereon, and the practice of the Court on similar occasions, with the judgments reducing and setting aside the elections of magistrates and councillors of the burgh of Inverness, they nominate and appoint James Robertson, James Grant, Alexander Anderson, Lewis Grant, and Charles Jamieson, and the survivors and acceptors of them, to act as managers of said burgh, and to administrate, on the part of the burgh, the whole affairs thereof, including the common good, and to set the said common good yearly, from year to year; and particularly to administer on the part of the burgh the affairs of Works, Mortifications, Academy, and Infirmary, and Charity Schools, and to raise, insist in, and pursue such actions as are necessary for the interest of the burgh, or of these institutions; and also nominate and appoint the said managers to act as bailies and magistrates, in taking care of the police of the said burgh, and in receiving, detaining, discharging, and awarding aliment to prisoners under the act commonly called the act of Grace, or otherwise; and to exercise the whole powers of the said act, and also for receiving resignations, and granting infeftments thereon, and on the recognition of heirs *mori burgi* in burgage tenements and lands held of the burgh; and also for regulating the assize of bread, weights, and measures, and superintending the public markets; and farther, nominate and appoint the petitioner, Alexander Cuming, to act as treasurer of the said burgh, he finding caution for his intromissions before extract; and also authorise and empower the said John Simpson, whom failing, the said John M'Kenzie, to act as dean of guild of the said burgh; and declare that the said nominations shall endure for the space of two years, unless the same shall, before that period, be recalled or altered by the Court, or unless the incorporation of the burgh of Inverness shall be restored to a legal magistracy before that period; and grant warrant for interim extract, without abiding the Minute-Book, except as to the appointment of the said Alexander Cuming, who is directed to find caution before extract; and appoint this petition and deliverance to be recorded in the books of Sederunt.

(Signed) D. BOYLE, I. P. D.

19th May 1819.

Act of Sederunt repealing the Act of Sederunt, in favour of the Lords Clerks, of 9th June 1803.

THE Lords (both Divisions being assembled) hereby repeal the 'Act of Sederunt in favour of the Lords Clerks,' of the 9th June 1803; and declare, that the provisions thereof shall have no effect from and after this date, and in all time coming; and appoint this act to be inserted in the books

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of

1819. of sederunt, and intimation thereof to be made in the minute-book of the Court.

(Signed) C. HOPE, *I. P. D.*

10th June 1819.

**Sentence against James Lyon and Alexander Mackenzie
for intercepting and keeping back Letters.**

THE Lords having resumed the consideration of the petition and complaint of Alexander Mackenzie, in this cause, with the answers, replies, and duplies, petition of James Lyon to be allowed to be heard by counsel, and having heard counsel for both respondents, who attended personally at the Bar, as ordered by interlocutor of the 27th *ultimo*, and having advised the whole of these proceedings, Find the petition and complaint against the respondents, for intercepting and keeping back letters passing between the complainer and his law agent in Edinburgh, competent and relevant: Find, from the admissions of the respondents, by their counsel at the Bar, this day, joined to the statements in their written pleadings, that the respondents were guilty of a proceeding highly injurious to the due administration of justice in this Court, and tending to the injury of the complainer, in the cause depending betwixt him and James Lyon, the respondent: Recommend to the Lord President of this Division of the Court to reprimand the respondents at the Bar for their unlawful conduct, and to recommend to them more correct behaviour in future, which was done accordingly; and, in respect of the contrition expressed this day by the respondents, dispense with farther punishment. But find the respondents, conjunctly and severally, liable in full expences to the complainer; allow an account thereof to be given in; and remit to the auditor to tax the same, and report; and ordain this interlocutor to be recorded in the sederunt book of this Court, as a warning to others to refrain from such practices in all time coming.

(Signed) D. BOYLE, *I. P. D.*

(Signed) 12th June 1819.

16th June 1819.

Act of Sederunt concerning the Poor's Roll.

WHEREAS by the 45th act of the second Parliament of James I. in the year 1424, a provision is made for appointing advocates to assist indigent persons, who cannot afford the expence of prosecuting their just claims in Courts of Law.
And

And whereas acts of sederunt concerning the poor's roll were passed on 20th November 1686, 9th June 1710, 16th June 1742, 10th August 1784, and 11th July 1800 : And whereas the poor's roll has of late years increased in number in a proportion greater than the circumstances of the times seem to warrant ; whereby there is reason to believe, that many persons have got upon the poor's roll who are not proper objects for it, and have thereby obtained a great advantage over their adversaries, some of whom are often in circumstances little better than themselves : And whereas it is therefore expedient that provisions should be made, which, while they secure the benefit of the poor's roll to those who really deserve it, may, at the same time, exclude those who are not proper objects. 1819.

Therefore, the Lords ordain,—

1mo, That the Faculty of Advocates, according to their present practice, shall appoint six of their number annually to be advocates for the poor ; and that the Writers to the Signet, and also the agents or solicitors, shall each nominate in the month of December annually, as at present, four of their number respectively to be writers and agents for the poor ; and shall immediately after such nomination give into the senior clerk of each Division a list of the persons so appointed ; which list is to be entered in the books of sederunt.

2do, That no person shall be entitled to the benefit of the poor's roll, unless he shall produce a certificate under the hands of the minister and two elders of the parish where such poor person resides, setting forth his or her circumstances, according to a formula hereto annexed.

3tio, That if the party's health admits of it, he or she shall appear personally before the minister and elders, to be examined as to the facts required by said formula ; and the minister and elders shall then certify how far the statement given by the party consists with their own proper knowledge, or that of any one of them, or whether its credit rests solely on the statement of the applicant, in which case they shall certify whether he or she be of good character and worthy of credit.

4to, That ten days previous intimation shall be given to the adverse party of the time and place fixed for making the said declaration or statement before the minister and elders ; of which intimation evidence must be produced to the minister under the hand of a notary public, messenger at arms, sheriff or town-officer, or other officer of the law.

5to, That said declaration of the party, and certificate of the minister and elders, with the certificate of intimation to the adverse party, shall be the warrant for a petition to the Court for the benefit of the poor's roll ; which petition need be in writing only, as at present, and shall be boxed only to the President of the Division ; and to the copy so boxed shall be appended a copy of the declaration of the party and certificate by the minister and elders.

That,

1819. That, on moving this petition, if the above requisites have been complied with, the Court shall pronounce an interlocutor, ordering intimation in the minute-book, and on the walls for ten days ; after the expiration of which period, the petition shall be again moved by the Lord President, and shall be remitted, as at present, to the lawyers and agents for the poor, to report whether the petitioner has a *probabilis causa litigandi*.

6to, That besides considering the *causa litigandi*, the counsel and agents, to whom the remit is made, shall hear all objections which may be offered by the adverse party, to the truth of the statements contained in the declaration and certificate of poverty, and shall be entitled to demand further evidence, in regard to any particular they may require to be further proved, and report thereon to the Court, in the same manner, and with the same powers as they at present report on the *probabilis causa litigandi*.

7mo, That if the Court shall find the petitioners entitled to the benefit of the Poor's Roll, the counsel and agent who shall have made the report shall be appointed to conduct the petitioner's cause, and shall continue to do so till its conclusion, or as long as the petitioner remains on the Poor's Roll, notwithstanding they may have ceased to be advocates and agents for the poor.

8vo, That no warrant for the benefit of the Poor's Roll shall remain in force for a longer period than two years from its date ; and, if an application shall be made for renewing it, such application shall be made by note to the Lord President of the Division, and shall be accompanied by a report from the counsel in the cause, stating, whether it appears to him or them, that the petitioner has still a *probabilis causa litigandi* ; and giving a concise detail of the steps which have been taken for bringing the process to a conclusion, and the cause which appears to have prevented a final determination ; which note shall be duly intimated to the agent for the adverse party in common form, before boxing it to the Lord President.

9no, That, on or before the sixth sederunt day of each Winter Session, the advocates and agents for the poor shall box a report, to the Lord President of each Division, of the actual state of the Poor's Roll of that Division ; the number and names of the persons then enjoying the benefit of it, with the dates of their several warrants of admission or renewal, and any special matter relating to that roll generally, or to any particular case, which they may think the Court ought to know.

10mo, That, in like manner, the Principal Clerks of each Division shall, on or before the sixth sederunt day of each Winter Session, make up and report to the Lord President of each Division, an abstract of the number of applications which may have been presented for the benefit of the Poor's Roll during the year preceding, with the manner in which they have been disposed of.

11mo, That, when the Court shall remit a petition to the advocates and agents for the poor to consider, and report on the *causa litigandi*, as above, it shall be the duty of the writer to the
signet,

signet, or agent named in the remit, to procure from the petitioner, or his former agent, information as to the circumstances of the case, and to draw up a full memorial thereof, and lay the same before the advocates and agents named in the remit, for enabling them to make their report; and if further evidence or explanation appear to be necessary, either as to the poverty of the petitioner, or circumstances of the case, such agent shall direct and assist the petitioner in procuring the same. 1819.

12mo, That the names of the advocates and agents, to whom such cause is remitted, shall be marked on the margin of the summons or defences, or letters of advocacy or suspension, and on the back of every subsequent paper given in for that party in the cause; and no enrolment shall be made except by the agent appointed as above, nor in the name of any advocate except of the counsel so appointed, and the word '*Poor*' shall be prefixed to the name of the said party on every paper given into Court.

13mo, That no other advocate or agent, than those appointed as above, shall be employed, or allow their names to be used in any stage of the cause, unless on application to the Lord Ordinary or the Court, by a note to be signed by the advocate and agent already appointed, the assistance of one of the other advocates or writers for the poor shall be specially authorised; in which case, those first appointed, and those so added, shall thereafter act conjunctly in the cause.

14mo, That, in case of neglect or failure in any of the particulars above specified, the Court, on the application of the adverse party, shall open up and set aside the previous proceedings in the cause, and deprive the party of the benefit of the Poor's Roll, or may apply such other remedy as the circumstances of the case may require.

FORMULA for the use of the Clergy, in framing Certificates of Poverty, before referred to.

' We, the undersigned Minister and Elders of the parish of
' do hereby certify, that on the
' day of A B, residing at
' applying for the benefit of the Poor's Roll, to enable him (or her)
' to carry on a law-suit, about to be brought (or presently depend-
' ing) before the Court of Session, appeared personally before us,
' and did in our presence emit the following statement in regard
' to his (or her) circumstances and situation.
' That he (or she) is years of age.
' That he (or she) is unmarried or married, as the case may be.
' That he (or she) has number of children
' under such an age, or in such and such circumstances.
' That he (or she) has resided in this parish for so long.
' That he (or she) is possessed of such and such property (here
' state particularly the applicant's property of every description.)
G g That

1819.

‘ That he (or she) is of such a trade; in which his (or her) earnings amount to so much.

‘ That he (or she) has, or has not, at present, any other law-suit depending before this or any other court (or if the applicant has any other law-suit, the case should be *particularly* mentioned.’)

Signed by the applicant, the minister, and elders.

The minister and elders are then hereby required to add whether the *whole*, or *any*, and *what* part of the foregoing statement is consistent with their own proper knowledge, or with the proper knowledge of any one of them: Or, whether its credit is to depend entirely on the statement of the applicant himself; or, if the case admit of it, they may add any other *causa scientiæ* that may occur to them.

And the Lords appoint this act to be entered in the books of sederunt, and printed and published in the usual manner.

(Signed) C. HOPE, I. P. D.

18th June 1819.

Appointment of interim Keepers and Clerks to the General and Particular Register of Sasines, &c. for Edinburgh, &c.

Unto the Right Honourable the Lords of Council and Session,

The Petition of Robert Dundas, one of the Principal Clerks of Session;

Humbly Sheweth,

THAT several years ago, the Right Honourable Robert Dundas of Arniston, late Lord Chief-Baron of the Court of Exchequer, who died yesterday the 17th current, was appointed jointly along with the deceased Andrew Stewart, Esquire, and upon his decease came to be sole and only clerk, and keeper of the general register of sasines, reversions, &c. in Scotland, and of the particular register of sasines, reversions, &c. within the sheriffdoms of Edinburgh, Haddington, Linlithgow, and Bathgate, conform to commission from the Crown, dated the 21st day of September, and sealed the 19th day of November 1799.

That the petitioner was named by the said deceased Lord Chief-Baron, after his becoming sole clerk and keeper of the said registers, to be his Lordship's depute therein; and Archibald Wishart, Writer to the Signet, was also named to be his substitute, by whom the duties of the office have been regularly discharged for some time past.

That

That as the very important business of this office cannot remain undischarged, even for a single day, without evident disadvantage, and perhaps great loss and damage to the lieges, it has appeared to the petitioner to be his duty to state the matter to your Lordships; and humbly to suggest, that until a commission from his Majesty, to the office now vacant, shall be produced to your Lordships, and the grantee admitted by this Court in the usual manner, there is a necessity, in the circumstances of the case, for two proper persons being forthwith appointed to act jointly or severally as interim clerks or keepers of the said registers, for the purpose of discharging the duties of the office, by recording all sasines and other instruments already presented since the death of the Lord Chief Baron, or which may be presented for registration, until a new commission shall be produced to your Lordships. 1819.

May it therefore please your Lordships to take the premises into your consideration, to nominate and appoint two proper persons to officiate jointly or severally as interim clerks and keepers of the aforesaid general and particular registers of sasines, reversions, &c. in place of the late Lord Chief Baron, until a new commission from the Crown shall be produced, or till farther orders from your Lordships; as also, to grant the usual powers to such interim keepers to record all sasines and other instruments already presented, or which may be presented, for that purpose, in the said registers, in the same manner, and to the like effect, as has been done under the aforesaid commission from the Crown, in favour of the said Lord Chief-Baron, the late holder of the office, while he acted as keeper of the said registers.

According to justice, &c.

(Signed) J. HOPE.

Edinburgh 18th June 1819.—The Lords having considered this petition, nominate and appoint the petitioner Robert Dundas, and Mr Archibald Wishart, Writer to the Signet, to be jointly and severally interim keepers of, and clerks to the within mentioned general and particular registers of sasines, reversions, &c.; and authorise and empower them, jointly or severally, to receive and enter into the said records, all such instruments of sasine, reversion, and others, as shall be presented to them, or either of them, in due form, and duly to certify the same; and also to collate the several instruments, and others, that have been already presented and entered in the said records, with the records thereof themselves, and to enter such of them as have not been entered therein, and thereupon to certify the same accordingly; and likewise to give out and sign such extracts from the said records as may be demanded, and otherwise generally to exerce and perform jointly.

1819. jointly and severally, all the duties of the said office, ay and until a new commission appointing a clerk and keeper of the said registers shall be obtained, and the obtainee thereof duly admitted, or until this warrant shall be recalled; and find that the petitioner, Mr Robert Dundas, is entitled to the dues and emoluments of the said office, during the time of his officiating therein, in virtue hereof; for doing whereof an extract of this present act shall be a sufficient warrant; and ordain this petition, with this deliverance thereon, to be insert in the books of Sederunt, and also in the books of the general and of the particular register of sasines, reversions, &c.

(Signed) C. HOPE, I. P. D.

29th June 1819.

Lord Cringletie appointed to Second Division.

LORD CRINGLETIE appointed to Second Division in place of Lord Reston, deceased, by warrant under sign manual, dated 23d June 1819.

Eod. Die.

Appointment of Keeper of General Register of Sasines, Reversions, &c.

THE Right Honourable William Dundas appointed Clerk and Keeper of General Register of Sasines, &c. by commission to him in reversion after the late keeper, dated 25th January 1806.

Eod. Die.

Appointment of Interim Sheriff-Depute of the county of Edinburgh.

Unto the Right Honourable the Lords of Council and Session,

The Petition of Adam Rolland, Sheriff-Clerk of the county of Edinburgh;

Humbly Sheweth,

THAT Sir William Rae, Baronet, who, by the London Gazette received to-day, is appointed his Majesty's Advocate for Scotland, having resigned the office of sheriff-depute of the county of Edinburgh, and no sheriff-depute, so far as the petitioner knows,

knows, having been appointed in his room, a stop is put to the farther procedure of business in the sheriff-court here. 1819.

That there being several cases of importance presently depending in the said sheriff-court, the delaying whereof may be detrimental to the lieges, it is the duty of your petitioner humbly to make this application to your Lordships, that you may be pleased to authorise a fit person to act as sheriff-depute in the meantime.

May it therefore please your Lordships to authorise and empower any fit person to exercise the office of sheriff-depute within the county of Edinburgh, until his Majesty shall appoint one in room of the late sheriff; and to dispense with the reading of the judgment in the minute-book.

According to justice, &c.

(Signed) Wm. R. ROBINSON.

Edinburgh, 29th June 1819.—The Lords having considered this petition, they authorise and empower Mr David Hume, advocate, to exerce the office of sheriff-depute within the county of Edinburgh, until a sheriff-depute for the said county shall be nominated by the Crown, and the said Mr David Hume be superseded; and dispense with the minute-book; and ordain this petition, and warrant thereon, to be inserted in the books of sederunt.

(Signed) C. HOPE, I. P. D.

1st July 1819.

Lord Meadowbank admitted.

ALEXANDER MACONOCHIE, Esquire, admitted as a Judge of First Division by the title of 'Lord Meadowbank,' in place of Lord Cringletie, removed to Second Division, by letter from the Prince Regent, dated 24th June 1819.

6th July 1819.

Appointment of Lord Advocate.

SIR WILLIAM RAE, Baronet, appointed Lord Advocate, by commission, dated 24th June 1819.

8th July 1819.

Act of Sederunt regulating Transmission of Processes to the Lords Ordinary for advising, and for better Preservation of the Records of the Court.

THE Lords having taken into their consideration the risk and inconvenience occurring in the transmission of processes to
H h the

1819. the Lords Ordinary for advising, as now practised, direct that every such transmission shall, from and after the 12th day of July 1819, be made by the clerks of Court, or their assistants, to the clerks of the Lords Ordinary, in the office now set apart, or any other office which shall be set apart for their Lordships clerks, in the Register House, and in no other place; and that for this purpose attendance shall be given at said office by the clerks respectively, for the *First* Division, on every Tuesday and Thursday; and for the *Second* Division on every Wednesday and Friday; and for the *Fifth*, or Junior Lord Ordinary, on every Monday during the sitting of the Session; and also for both Divisions, and for the said Lord Ordinary on the two first lawful days after every box-day, and on the three first lawful days of every vacation and recess, between the hours of three and four of every such day.

And the Lords further direct, that the clerks of Court, or their assistants, at delivering over processes, or parts of processes, to the clerks of the Lords Ordinary, shall exhibit a book containing an entry as to each such process, of the date of transmission, the title of the process, whether the whole, or what part of the proceedings, and the name of the Lord Ordinary; in which book, after comparing with the inventory of the process, the clerk of the Lord Ordinary shall enter his signature: And when re-transmission is made, the clerk of court, or his assistant, shall, after a similar comparison, subjoin to the said entry his signature, specifying the date of such re-transmission; and which transmission-book shall be made patent to the clerks of the Lords Ordinary upon all necessary occasions. And for the purposes of conveying processes to and from the houses of the Lords Ordinary and the Register-House, their Lordships clerks are required to provide proper bags of leather, secured by locks or padlocks; and any expence of portage which may be necessarily incurred in such conveyance shall be defrayed, one half by the Lords clerks, and the other half by the clerks of court, or their assistants.

And the Lords ordain, that, in terms of the Act of Sederunt of 10th March 1798, the clerks of court, in all causes already in Court, or which shall be hereafter brought into Court, shall make out and preserve two duplicates of a correct inventory of the articles of which each process consists; specifying therein the date of each production and ingiving to be henceforth made; one of which duplicates shall always remain in the custody of the clerk of Court till the final transmission of the process to the keeper of the records, and the other of which duplicates shall always form one of the articles of the process, when transmitted to the Lord Ordinary for advising.

And the Lords, with the view of preventing, as far as possible, the injuries to which the steps of procedure forming the record of the Court are exposed, in passing through many hands in the course of litigation, direct, that every summons, suspension, advocacy, petition, and every paper, of whatever denomination, which

which shall, from and after the 12th day of November next, be 1819.
 given in to the clerks of Court, shall have at least one spare leaf
 of paper for containing interlocutors, and shall also have an outer
 leaf or cover of cartridge paper, or some other substance of equal
 strength and durability, and shall be folded only once length-
 ways; and that such of these as are by the rules of Court in ma-
 nuscript, shall be written on full-sized foolscap paper, uncut on
 the edges, and with outer and inner margins; and that the tying
 together of steps of process and productions shall be not with
 cord, but with tape of proper breadth; and the clerks are direct-
 ed to write all interlocutors with outer and inner margins, and to
 take care that the preceding regulations for preservation of the
 record be duly observed.

And the Lords appoint this act to be entered in the books of
 sederunt, and printed and published in the usual manner.

(Signed) C. HOPE, I. P. D.

13th July 1819.

Appointment of interim Sheriff-Depute of the county of Forfar.

*Unto the Right Honourable the Lords of Council and Session,
 The Petition of Patrick Orr, writer to the signet, Sheriff-Clerk of
 Forfarshire;*

Humbly Sheweth,

THAT the petitioner has been informed by Adam Duff, Esq.
 that, in the expectation of his appointment as sheriff-
 depute of Edinburghshire, he, on the 4th July current, sent off
 to London his resignation as sheriff-depute of Forfarshire.
 It is understood that this resignation will appear in the London
 Gazette of Friday the 9th current, and may be read in Scotland
 upon the Tuesday following. In that event, every process, how-
 ever important, must, after that day, stand still, and no new pro-
 cess can be brought, until some person holds the office of sheriff-
 depute, either by commission from the Crown, or under an in-
 terim nomination of your Lordships. The petitioner understands
 that a summary application for an interim sheriff-depute cannot
 competently be made to the Lord Ordinary on the Bills, during
 the vacation, and that it is his duty to represent these circum-
 stances to your Lordships, before the rising of the Court, in or-
 der that your Lordships may be pleased to authorise any fit per-
 son to act as sheriff-depute of said county in the meantime, in
 the event of no permanent one being appointed by the Crown
 betwixt and next Tuesday. As Mr Duff's resignation cannot
 now be gazetted before the rising of the Court, the petitioner
 humbly submits that your Lordships will not hesitate, upon the
 attestation

1819. attestation of Mr Duff to the facts as above stated, either directly to name an interim sheriff-depute, or to authorise the Lord Ordinary on the Bills to take that step, in the event of that office not being filled up by a nomination from the Crown betwixt and Tuesday the 18th current.

May it therefore please your Lordships to authorise and empower any proper person to act as interim sheriff-depute of the county of Forfar until the Crown shall think fit to nominate a sheriff-depute; or to remit to the Lord Ordinary on the Bills, with power to name an interim sheriff-depute, in the event of no nomination being made by the Crown to that office betwixt and Tuesday; and to dispense with the minute-book.

According to justice, &c.

(Signed) E. CATHCART.

Edinburgh, 9th July 1819.—I hereby attest, that what is stated in the above petition, is correct; and I also certify, that I have this day, the 10th July, received a letter from Messrs Spottiswood and Robertson, informing me of my resignation having been given in to Lord Sidmouth.

(Signed) ADAM DUFF.

Edinburgh, 10th July 1819.—The Lords having considered this petition, they remit to any of the Lords Ordinary on the Bills, during the ensuing vacation, with power to name an interim sheriff-depute, as prayed for, upon evidence being produced of the resignation of Mr Duff having been accepted of by the Prince Regent, or otherwise to do in the premises as to his Lordship shall seem just.

(Signed) C. HOPE, *I. P. D.*

Edinburgh, 13th July 1819.—The Lord Cringletie, Ordinary, officiating on the Bills, having considered this petition, in consequence of the within remit, and the evidence of Mr Adam Duff being actually appointed sheriff-depute of Edinburghshire, being now produced, authorises and empowers Mr Miles A. Fletcher, advocate, to exercise the office of sheriff-depute within the county of Forfar, until a sheriff-depute for the said county shall be nominated by the Crown, and the said Mr Miles A. Fletcher be superseded; and ordains this petition and warrant thereon to be inserted in the books of Sederunt.

(Signed) J. WOLFE MURRAY.

30th August 1819. 1819.

Appointment of Interim Commissary Clerk of Hamilton and Campsie.

Unto the Right Honourable the Lord Ordinary officiating on the Bills,

The Petition of William Hamilton, Esquire, Commissary of Hamilton and Campsie ;

Humbly Sheweth,

THAT the office of commissary clerk of the commissariat of Hamilton and Campsie lately became vacant by the death of Mr Mathew Taylor, writer in Glasgow.

From the state of the business connected with the duties of the office of commissary clerk, the greatest inconvenience must be occasioned by the delay to fill the office, which renders the present application necessary to your Lordships, to appoint a fit person to be interim commissary clerk till a regular appointment shall be made by the Crown ; and he suggests Mr Hugh Ferguson, writer in Glasgow, as a fit person to hold the said office.

May it therefore please your Lordship to nominate and appoint the said Mr Hugh Ferguson to be interim commissary clerk of the commissariat of Hamilton and Campsie, and to exercise the said office till an appointment shall be made thereto by the Crown.

According to justice, &c.

(Signed) J. S. MORRIS.

Edinburgh, 30th August 1819.—The Lord Succoth, Ordinary officiating on the Bills, having considered this petition, nominates and appoints the within named Hugh Ferguson to be interim commissary clerk of the Commissariat of Hamilton and Campsie ; and authorises and empowers him to exercise and use the powers and duties of the said office, until a regular appointment and commission thereto by the Crown shall be produced and recorded ; appoints this deliverance to be recorded in the books of sederunt.

(Signed) ARCHD. CAMPBELL.

1819.

17th December 1819.

Act of Sederunt respecting the attendance of Principal Clerks, &c. to mark Petitions, &c. in Register House on the Box-Days.

THE Lords of Council and Session considering that, by their act of Sederunt, dated the 7th day of February 1810, it was enacted and declared, that the Principal Clerks of Session, and their deputes or assistants, shall attend in their proper places in the Inner and Outer-House on box-days, for the purpose of marking representations and reclaiming petitions, and that it has been found more suitable to the convenience of all concerned, that such attendance should be given by the clerks at the General Register House, where printed papers are boxed, and where the collector of the fee-fund has his office, do, therefore, rescind the said enactment, and enact and declare, that henceforth attendance shall be given on the first box-day in every vacation, from one to three o'clock afternoon, by one or more of the Principal Clerks of Session, for the purpose of marking reclaiming petitions in the office of the senior clerk, and by each depute clerk, or his assistant, in his own office, for marking representations.

1st February 1820.

Act resolving that the being a Proprietor or holding a Share of the Capital Stock of any of the Chartered Banks, is not a ground of disqualification against judging in questions connected with such Bank.

THIS day, the Court resolved that the circumstance of a judge being a proprietor or holding any share of the capital stock of any of the chartered banks in Scotland, is not a ground of disqualification against his Lordship judging in a question connected with such bank, or wherein it may have any interest.

1820.

4th February 1820.

Order of the King and Council for recording the King's Oath, and Instrument for preserving the Protestant Religion.

KING GEORGE III. having died at Windsor Castle on the 29th January last, and the tidings having arrived at Edinburgh upon the 2d day of February current, the Lords of Session did not sit that day, nor upon the day following, when his present Majesty King George IV. was proclaimed at Edinburgh.

And, upon this day, the Lords of Session, both Divisions being assembled in the First Division Court-room, and the principal clerks and other members of the Court present, did swear and subscribe the oaths of allegiance and abjuration, and subscribe the declaration of assurance.

The same day, the Lord President presented to the Court an order of the King and Council, to which is annexed an oath subscribed by his Majesty in his first council, for maintaining and preserving the true Protestant religion and church government in Scotland, as established by law, with an instrument subjoined, signed by such of the members of the Privy Council as were then present witnessing the same; and which order of the Privy Council appoints such oath and instrument to be recorded in the books of Sederunt of the Court of Session, and afterwards to be forthwith lodged in the public Register of Scotland; which oath and instrument, and order of Council, being read in presence of the Lords, they ordain the same to be recorded in their books of Sederunt, and appointed Mr Walter Scott, principal clerk, thereafter to transmit the said order, oath, and instrument, to the Lord Clerk Register, or, in his absence, to the persons empowered by him, to take care of the records, to be by them put into the public register, whereof the tenor follows:—

Order of the Privy Council.

At the Court at Carlton House, the 30th January 1820.

Whereas, by an act of Parliament made in Scotland, intituled an act for securing the Protestant religion and presbyterian church government, which is made part of another act, intituled an act, 'Ratifying and approving the Treaty of Union of the two kingdoms of Scotland and England,' and another act passed in England in the fifth year of the late Queen Anne, intituled 'An act for an Union of the two kingdoms of England and Scotland,' it is provided, that, after the decease of her said late Majesty, the sovereign succeeding to her in the royal government of the kingdom of Great Britain shall, at all times coming, at his or her accession to the Crown, swear and subscribe, That they shall inviolably

1820. violably maintain and preserve the settlement, mentioned in the said act, of the true Protestant religion, with the government, worship, discipline, rights, and privileges of the Church of Scotland, as established by the laws of that kingdom, in prosecution of the claim of right. And his most sacred Majesty having this day, in his first general council, taken the oath according to the form used by the law of Scotland, and subscribed the same in two several instruments, is pleased to order, as it is hereby ordered, that one of the said instruments, which is hereunto annexed, containing the said oath taken and signed by his Majesty, and witnessed by the Lords of his Majesty's most Honourable Privy Council then present, be transmitted to the Court of Session, to be recorded in the books of Sederunt, and afterwards to be forthwith lodged in the Public Register of Scotland; and that the other of them remain among the records of the council, and be entered in the council book; and that all persons concerned do take notice thereof, and govern themselves accordingly.

(Signed) JAMES BULLER.

Follows the tenor of the oath and instrument :—

I, GEORGE IV. King of the united kingdom of Great Britain and Ireland, Defender of the Faith, do faithfully promise and swear, that I shall inviolably maintain and preserve the settlement of the true Protestant religion, with the government, worship, discipline, rights, and privileges of the Church of Scotland, as established by the laws made there in prosecution of the claim of right; and, particularly, by an act intituled, 'An act for securing the Protestant Religion and Presbyterian Church Government,' and by the acts passed in the Parliament of both kingdoms, for union of the two kingdoms. So help me God.

(Signed) GEORGE, R.

On the 13th day of January, in the year of our Lord 1820, at his Majesty's Court, at Carlton House, his Majesty, in his first general council, did take and subscribe the oath before written, in presence of the Right Honourable the Lords of the Privy Council hereafter subscribing, viz. (subscribed thus) Frederick William, Augustus Frederick, William Frederick, Leopold, Prince of Saxe-Cobourg, &c. C. Cantuar, Eldon, Atholl, Montrose, Wellesley, Camden, Lauderdale, Chatham, Bathurst, Mulgrave, Melville, Sidmouth, W. Loudon, Charles Manners Sutton, N. Vansittart, Frederick John Robinson, Liverpool, William Scott, W. Grant, Robert Peel, Charles Arbuthnot, C. Abbot, R. Dallas, T. Wallace, John Nicholl, R. Richards, W. Sturges Bourne, John Leach, Charles Bagot, B. Bloomfield.

4th February 1820. 1820.

Act of Sederunt authorising all Summonses and other Diligences raised and not perfected in the reign of the late King, to be execute and further proceeded in, in the name of his present Majesty.

THE Lords of Council and Session considering that, during the reign of his sacred Majesty King George the Third, of blessed memory, and since his decease, before the 3d day of February instant, (when Our Sovereign Lord King George the Fourth was proclaimed,) there were summonses, letters of horning, captions, inhibitions, arrestments, loosing of arrestments, publications of interdiction, precepts, brieves, charges to enter heir, charges of lawborrows, suspensions, advocations, and other writs and diligences raised, and which were not at all, or not fully, executed and perfected before the said 3d day of February instant; and seeing there was no interruption in the royal authority, and that all persons concerned may be informed and cleared concerning the execution and effect of the same, Therefore the Lords of Council and Session, according to the power lodged in them by the institution of the College of Justice, and subsequent laws and acts of Parliament, and the laudable practice of their predecessors in the like cases, for preventing and removing any question or debate thereanent, do declare that they will allow and sustain the said summonses, letters, and all other diligences foresaid whatsoever, with all that has followed, or may follow thereupon, in the like way and manner, and to have that force and effect as if the same had been perfected and received the full effect and execution during the life and reign of our said late Sovereign; and that it shall be lawful to execute and further prosecute all summonses and others foresaid in the name of his present Majesty, albeit the said summonses, letters, or others have been raised in the name of the said late King: And further, in respect that the Court did not sit upon the second and third days of February current, the Lords declare that these days shall not be numbered as part of the reclaiming days, or of the space assigned to elapse upon any act or order of Court. And that all persons concerned may have speedy notice hereof, they ordain these presents to be printed and published at the market-cross of Edinburgh.

(Signed) C. HOPE, *I. P. D.*

1820.

11th March 1820.

Act of Sederunt for better regulating the calling of Summonses and Letters of Suspension and Advocation, and fees exigible therefor by assistant Clerks and Agents.

THE Lords of Council and Session, in order to obviate certain inconveniences and irregularities which arise out of the existing practice in calling summonses and letters of suspension and advocation, enact and ordain as follows :

1. That every summons, suspension, or advocation, on being lodged with the depute clerk or his assistant, with the *partibus* written thereon, and with the executions thereof and productions, (if any,) and an inventory of the whole shall immediately be entered in a *list for calling*, containing in appropriate columns the names of the pursuer or suspender, and defender or charger, and of the counsel and agent of the pursuer or suspender ; and shall not thereafter be given up by the Clerk, except when borrowed by the agent on his receipt, or when transmitted to some other Officer of Court.

2. That the calling by the depute-clerks, or their assistants, shall in future be performed not *viva voce*, as at present, but by the exhibition of the said lists, which shall be subscribed with the proper office mark, and hung up for public inspection in the Outer-House, on each sederunt day immediately preceding a day for enrolment of causes in the Outer-House rolls, and shall so remain hung up on each such day from 10 o'clock in the morning till 2 o'clock in the afternoon.

3. That, in the afternoon of every such day, appearance may be entered for defenders or chargers, for which purpose their Agents shall attend at the clerk's office between the hours of 6 and 7 o'clock, when the appearance shall be marked by the clerk upon the *partibus* in common form ; and the agent shall be entitled to borrow the process on his receipt, which shall infer an obligation to return the same to the clerk, on or before the sixth day after entering appearance, under pain of caption.

4. That, after the elapse of the period above specified for entering appearance, the clerk, on the requisition of the agent for the pursuer or suspender, if no appearance has been entered, shall fill up the *partibus* accordingly in common form.

5. That in case the agent, by whom appearance has been entered, shall subsequently inform the clerk that this was done through error, the clerk shall amend the *partibus* accordingly, in the manner now practised on a return, as not for the party.

6.

6. That when appearance is not duly made for the defender or 1820. charger, and also after the time fixed for the return of the process, where appearance has been made, it shall be lawful to the agent for the pursuer or suspender to borrow the process, for the purpose of obtaining enrolment in the appropriate roll for the Outer-House.

7. That the form of out-givings and returns as now practised, shall be hereafter abolished, and the marking on the *partibus* by the clerk shall be a sufficient warrant to the keeper of the Outer-House rolls for enrolment of the cause in the proper roll.

8. That whenever a process, after having been called by a clerk attached to one Division of the Court, shall be enrolled in the Outer-House rolls to be discussed by a Lord Ordinary of the other Division, the clerk, in whose calling list the case was entered, shall be bound, on the requisition of either party, to transmit the process to the office of the clerk in whose name the enrolment shall have been made.

9. That for the additional duty to be performed by the assistant clerks, and by the agents, in consequence of this act, the following fees shall be paid and charged, viz.

	Clerk.	Agent.
For borrowing to enrol, - -	£0 1 0	£0 1 0
For returning, - - -	0 1 0	0 1 0
For borrowing by the defender, } whether there are productions or not, }	0 1 0	0 1 0
For returning, - - -	0 1 0	0 1 0
For lodging productions, -	0 1 0	0 0 0
For transmitting from one clerk to } another when necessary, - - }	0 1 0	0 0 0

And that no other fees shall be paid or charged, either by the assistant clerks or agents in this stage of a cause, in name of borrowing, or otherwise.

And the Lords appoint this act to be inserted in the books of Sederunt, and printed and published in the usual manner.

(Signed) C. HOPE, I. P. D.

1820.

12th Mgy 1820.

Petition of Bar-keepers Committee of the Faculty of Advocates.

Unto the Right Honourable the Lords of Council and Session,

The Petition of Henry Cockburn, James Campbell, Henry Home Drummond, John Cay, and John Hope, Esquires, Advocates, being a Committee appointed by the Faculty of Advocates to superintend the accommodations of the Faculty in the Courts of Session and Justiciary, and the Jury Court.

Humbly Sheweth,

THAT several complaints having been made by the members of the Faculty of Advocates, that they found great difficulty in obtaining seats in the Courts of Session and Justiciary, during the discussion of cases of interest and importance, the places formerly set apart for them being frequently occupied by strangers, the petitioners were last winter Session appointed a committee to inquire into the best mode of improving the accommodations of the Faculty.

Upon investigation, it was found that it was hardly possible for the officers of the Faculty to keep the seats hitherto set apart exclusively for the members of that body, from the circumstance, that the passages leading to those seats were necessarily open to the public, as affording the only access by which communication might be had with the keepers of the Inner-House rolls in each Division, and the clerk of the bills.

To remedy this, certain alterations have been suggested, by which separate doors and passages have been set apart leading to the seats, which it is proposed the Faculty should now occupy; while the access to the officers of Court, above mentioned, is reserved to the public. Of these alterations, it is hoped your Lordships will approve; and that you will grant such an order as will secure to the members of the Faculty uninterrupted and exclusive access to those benches.

May it therefore please your Lordships to authorise the bar keepers appointed by the Faculty of Advocates, under the superintendence of your petitioners, to prevent all persons entering the Courts by the private doors appropriated to the Faculty, or from standing in the passages, or sitting on the benches set apart for them, except only advocates in their
gowns,

gowns, and such persons as are specially authorised by your Lordships. 1820.

According to justice, &c.

(Signed). For Self and the Committee,
JOHN CAY, *Convener*.

Edinburgh, 12th May 1820.—The Lords having considered this petition, they grant warrant in the terms prayed for; and appoint the petition, and this deliverance, to be recorded in the books of Sederunt.

(Signed) C. HOPE, *I. P. D.*

9th June 1820.

Appointment of Interim Depute Keeper of the Signet.

Unto the Right Honourable the Lords of Council and Session,

The Petition of John Home, Writer to the Signet, and Substitute Keeper of the Signet;

Humbly Sheweth,

THAT Mr Hugh Warrender, deputy keeper of the signet, died this morning: That Mr Warrender held his commission as deputy keeper from the Right Honourable William Dundas, principal keeper of the signet; and the petitioner having held his commission as substitute keeper from Mr Warrender, a doubt may arise whether, on account of Mr Warrender's death, and the principal keeper's absence from Scotland, the petitioner is authorised to affix the signet to his Majesty's letters, and to continue to do the other business of the signet.

That, as great inconvenience and prejudice to the public might ensue, if the business of the signet were to be stopped, and as the signet is under the jurisdiction of your Lordships, the petitioner makes this application, that you may be pleased to appoint an interim depute keeper of the signet, until Mr Dundas, the principal keeper, shall appoint a deputy in room of Mr Warrender.

May it therefore please your Lordships to appoint the petitioner, or any other person your Lordships may think proper, to be deputy keeper of the signet, and to cause append the signet to all letters passing the same, and to do every other thing that the deputy keeper was in use to do, until

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Mr

1820. Mr Dundas, the principal keeper, shall appoint a deputy keeper of the signet.

According to justice, &c.

(Signed) JOHN HUGH M'LEAN,
for Mr BORTHWICK.

Edinburgh, 9th June 1820.—The Lords having considered this petition, they nominate and appoint the petitioner, John Home, to officiate as deputy keeper of the signet, until a deputy shall be appointed by the principal keeper, and that for the purposes and with the powers prayed for; and ordain the petition, with this deliverance thereon, to be inserted in the books of sederunt; and the said John Home being present in Court, he took the oath *de fide*.

(Signed) C. HOPE, I. P. D.

17th June 1820.

Act declaring New Jail of Inveraray a Legal Prison.

Unto the Right Honourable the Lords of Council and Session,

The Petition of the Provost and Magistrates of the Royal Burgh of Inveraray;

Humbly Sheweth,

THAT the old jail of Inveraray being damp and incommodious, it became necessary that a new jail should be built for the use of the burgh and shire.

An act of Parliament was therefore obtained in the 54th year of the late King's reign (54 Geo. III. c. 102), for assessing the county of Argyle in the sum of L.7000 sterling, to build a new jail, with the requisite accommodations; and a copy of the act is herewith laid before your Lordships. Plans were produced from an able architect, by which it was proposed to build a large jail for the accommodation of debtors, and a smaller one for criminals. The large jail is now built and finished; and has undergone an examination by the architect as to its sufficiency. Its fitness for a legal prison is shewn by a certificate herewith produced (App. No. 2.) under the hand of Mr Duncan Campbell, the provost of the burgh, and sheriff-substitute of the county; and, in so far as the health and comfort of the prisoners is concerned, the petitioners beg leave to refer to another certificate herewith produced (App. No. 1.), being from Mr John Anderson, surgeon at Inveraray.

The

The petitioners are anxious to have the whole prisoners removed to the new jail without delay. 1820.

May it therefore please your Lordships to find and declare the said new jail to be a legal prison for the confinement of debtors ; and authorise the removal of the debtors presently confined in the old prison at Inveraray to the said new jail, and to decern accordingly, or to do otherwise in the premises as to your Lordships shall seem just.

According to justice, &c.

(Signed) For M. A. FLETCHER,
J. C. COLQUHOUN.

Inveraray, 9th June 1820.—I, John Anderson, surgeon in Inveraray, do hereby attest and certify, that I did this day inspect and particularly examine the new jail erected in this burgh, and found the walls quite dry and free from damp ; and that the prisoners may with safety be placed there without any risk of disease from their removal. Witness my hand, place and date above written.

(Signed) JOHN ANDERSON, Surgeon.

Inveraray, 9th June 1820.—I, Duncan Campbell, present provost of the burgh of Inveraray, and sheriff-substitute of Argyleshire, do hereby certify, that I this day inspected and particularly examined the new jail for debtors erected in this burgh, and found it in all respects fit to be declared a legal prison for the said shire and burgh for the reception of debtors ; and I do further declare, that, in my opinion, it is more secure, and, in every respect, a better jail, even for criminals, than the present county jail. Witness my hand, place and date above written.

(Signed) DUNCAN CAMPBELL, P. & Sh. Sub.

Edinburgh, 17th June 1820.—The Lords having considered this petition, with the certificates produced, and heard from the Lord Justice-Clerk a verbal report of the approbation already given to the new jail of Inveraray by the Court of Justiciary, so far as regards criminal prisoners, and of the inspection which he had in person made of the whole building when last at Inveraray, find and declare the parts of the new buildings destined for the confinement of debtors a legal prison ; and authorise the removal of the debtors from the old to the new jail of Inveraray ; and decern accordingly ; and ordain this petition, with the deliverance of the Court, and the said certificates, to be recorded in the books of sederunt.

(Signed) D. BOYLE, I. P. D.

1820.



10th November 1820.

Appointment of interim Commissary of Dunkeld.

Unto the Right Honourable the Lord Ordinary on the Bills,

The Petition of James Scott, residing at Balcairn, late Commissary-depute of Dunkeld;

Humbly Sheweth,

THAT Robert Stewart, Esquire, of Garth, commissary principal of Dunkeld, lately died.

That the petitioner, for a period of upwards of twenty-one years, has officiated as commissary depute by a commission from Mr Stewart, which has fallen by his, Mr Stewart's death.

That the commissariat of Dunkeld being very extensive, comprehending sixty-three parishes, there are various causes depending before the Court, particularly confirmations and cognitions, which require dispatch, and the delay of which would be of much prejudice to sundry of the lieges.

May it therefore please your Lordship to appoint a proper person to be interim commissary of Dunkeld, or to authorise and appoint the petitioner, James Scott, to exerce the office of commissary of Dunkeld, in place of Mr Stewart, deceased, the late commissary, with the usual powers, ay and until his Majesty shall please to appoint a commissary for the said commissariat, or until farther orders from your Lordship or the Court.

According to justice, &c.

(Signed) JOHN BLACKWELL, for
Mr WM. ERSKINE.

Edinburgh, 10th November 1820.—The Lord Craigie, Ordinary officiating on the Bills, having heard this petition, in respect of the urgency of the case, authorises and appoints the petitioner, James Scott, to act as interim commissary of Dunkeld, in place of the deceased Robert Stewart, late commissary principal, with power to hold courts from time to time in the ordinary form; to issue forth edicts and other writs usual, to confirm testaments, to hear and decide all causes consistorial, and to exerce the other powers competent to the said office, until his Majesty shall appoint a commissary for said commissariat, or until further orders from the Court of Session; and appoints this petition and deliverance to be recorded in the books of sederunt.

(Signed) RO. CRAIGIE.

10th

1821.

10th February 1821.

Act declaring the New Jail of Paisley a Legal Prison.

Unto the Right Honourable the Lords of Council and Session,

The Petition of William Mure, Esquire, of Caldwell, Vice-Lieutenant of the county of Renfrew, and others, commissioners under the statute of the 55th year of his late Majesty, intituled, 'An act for erecting and maintaining a bridewell, gaol, court-house, and public offices for the burgh of Paisley, and county of Renfrew;'

Humbly Sheweth,

THAT, by the said statute, it is enacted, 'That the said commissioners shall be, and they are hereby authorised to purchase and procure one or more proper situations, within the bounds of the burgh of Paisley, and there cause to be erected, provided, established, and maintained, suitable buildings for the following purposes, *videlicet*:—A bridewell, gaol, and court-house, for the said burgh and county, lieutenancy and county-hall, depots for the arms and accoutrements of the militia of the said county, offices for the sheriff-clerk, and the custody of the county records under his charge, council-chamber for the magistrates and town council of Paisley, with apartments for the commissioners of police after mentioned, and their officers, together with such other public offices and accommodations as may be found requisite by the said commissioners.'

That, in pursuance of the said act, the commissioners having procured a situation contiguous to the River Cart, within the bounds prescribed by the statute, have caused a large prison building to be erected thereon; the south division of which is designed and calculated for a common gaol, and the north division for a bridewell or correction-house for the burgh of Paisley, and county of Renfrew; which range of prison buildings are contiguous and parallel to another range of buildings, which comprehends a county-hall, court-house, chambers intended for the sheriff-clerk and justice of peace clerk; also apartments intended for a council chamber, and other offices for the magistrates of the burgh of Paisley, besides police office, jailors-house and lodge, and other public accommodations; and between said parallel ranges of buildings, and also contiguous thereto, are prison yards or airing grounds.

That the south division of said prison buildings intended for the said gaol, is now ready for the reception of prisoners. It contains thirty-four apartments, exclusive of a chapel for religious instruction, which is situated between the two divisions of the said prison buildings, with access from each of these apartments: There are eight capable of being used as day rooms, and

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1821. the whole, excepting six, are vaulted. The whole building is well aired, abundantly supplied with good water, lighted from external windows, and having several contiguous yards, securely inclosed, for air and exercise to prisoners, as well debtors as criminals, besides other conveniences. The jailor's-house and lodge communicate on one side with the police office, and with two lock-up houses, or occasional places of confinement, and on the other overlooks the west front of the prison buildings, and the intermediate prison yards. All external communication with the prisoners is prevented, by a high wall, which incloses the whole prison buildings.

That, by another section of the said statute, it is enacted, ' That, when the new jail or prison to be erected in pursuance of this act, shall have been completed, the same shall be held and declared to be a legal prison, and shall be given over to the provost and magistrates of Paisley as such, and shall so remain in all time thereafter, for the reception and custody of debtors imprisoned under legal diligence, and of persons committed by warrant of the sheriff-depute of the said county of Renfrew, or his substitutes, the provost and bailies of Paisley, and justices of the peace of the said county respectively; and the keeping and regulation of the said jail shall always be vested in the said magistrates of Paisley, who shall be bound to defray the whole charges and expences thereof, and have the entire responsibility for the same, and the prisoners committed therein, in like manner as they have now with respect to the present gaol; and nothing in this act shall be deemed to alter the rights and responsibility of the said magistrates, as the same now stand by the law and usage of Scotland in relation to the prison of the burgh of Paisley.' That, by another act of Parliament passed in the 59th year of his late Majesty, cap. 61, intituled, ' An Act to enable counties and stewartries in Scotland to give aid to royal burghs situated therein, for the purpose of improving, enlarging, or rebuilding their gaols, or to improve, enlarge, or rebuild common gaols of counties and stewartries, which are not gaols of royal burghs;' it is enacted, section 14th, ' That at such first meeting, or at some adjournment thereof, it shall and may be lawful to the said Commissioners of Supply, or a majority of them, to resolve and determine to what amount such county or stewartry shall be assessed, for the improvement, enlargement, or rebuilding of any common gaol therein.'

And it is farther enacted, section 22d, ' That, if it shall be found necessary for the improving, enlarging, or rebuilding any common gaol within any county or stewartry, not being the gaol of a royal burgh, that the prisoners therein shall be removed during the period of such improvement, enlargement, or re-building, it shall be lawful for the justices of the peace for such county or stewartry, in general Sessions assembled, to direct the removal of such prisoners, and for all persons legally authorised to commit any debtors, felons, or delinquents to
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‘ any secure place of confinement! within such county or stew- 1821.
 ‘ artry, until such improvement, enlargement, or rebuilding shall
 ‘ be completed ; and when any such improved, enlarged, or new
 ‘ gaol shall be fit for the reception of prisoners, it shall be law-
 ‘ ful for such justices, so assembled as aforesaid, to direct the re-
 ‘ moval thereto of all such debtors, felons, or other delinquents as
 ‘ shall then be confined in such secure place of confinement, and
 ‘ should by law be confined in such common gaol of the county
 ‘ or stewartry, and such removal and removals, and the airings
 ‘ and exercisings of the prisoners, who shall be confined in such
 ‘ improved, enlarged, or new gaol, in any yards, courts, and of-
 ‘ fices, or conveniences thereto belonging, shall not be deemed
 ‘ or taken to be an escape or escapes.’

That, in virtue of the powers conferred by the last recited act, the commissioners of supply of the said county did resolve, in aid of the commissioners under the first recited act, to improve and enlarge the foresaid prison buildings, by adding another storey to the same, and by imposing an assessment to defray the expence thereof, so that the said prison buildings, which now consist of four stories, fall to be held as within the operation of the said act of the 59th of his late Majesty, which permits the airing and exercising of prisoners for debt as well as for criminal causes.

That the apartments are so arranged as to keep the criminal completely separate from the civil prisoners.

That the petitioners are now desirous that the south division of said prison buildings, intended to be given over to the magistrates of Paisley as a common jail, together with the yards and areas thereto belonging, and contiguous, may receive the sanction of your Lordships as a legal prison.

That the High Court of Justiciary, on a recent application from the petitioners to have the north or Bridewell division of the said buildings declared to be a lawful prison, was pleased to remit to the Sheriff-depute of Renfrewshire, to James Cleland, Esquire, architect in Glasgow, to Dr John Whyte, physician in Paisley, and to Mr Hugh Thomson, surgeon there, to inspect the same, and report their opinion thereon ; and the petitioners do now take the liberty to suggest the same gentlemen, or any three of them, as proper inspectors on the present occasion.

May it therefore please your Lordships to consider the premises, and to remit to the gentlemen just named, or any three of their number, to inspect and report upon the state of the south division of the said prison buildings, with regard to health and security ; and thereafter to find and declare the same, with the areas and yards belonging and adjoining thereto, and also the chapel intended to be used as a place of religious instruction to the prisoners in both divisions of the prison buildings, to be a legal gaol and prison for the burgh of Paisley, and county of Renfrew, for all prisoners committed thereto, in virtue of legal diligence for debt,

1821.

so that the petitioners may be enabled immediately to give over the same to the magistrates of Paisley, in terms of the statutes; and the same being so found, that your Lordships will authorise the removal of the prisoners presently under confinement in the old gaol to the said new gaol.

According to justice, &c.

(Signed) AR. CONNELL, for Sir J. CONNELL.

Edinburgh, 3d February 1821.—The Lords having considered this petition, remit to James Cleland, architect, Dr John Whyte, and Mr Hugh Thomson, within mentioned, to inspect the south part of the jail, and to report their opinion thereupon with regard to health and security.

(Signed) CLAUD I. BOSWELL, I. P. D.

Report by Messrs James Cleland, Architect in Glasgow, John Whyte, Physician in Paisley, and Hugh Thomson, Surgeon there.

IN obedience to an appointment of the Right Honourable the Lords of Council and Session, dated the 3d day of February current, proceeding on the petition of William Mure, Esquire, of Caldwell, vice lieutenant of the county of Renfrew, and others, we have inspected the south division of the new prison buildings, erected in the burgh of Paisley, intended for a common gaol, with the chapel, areas, and yards belonging and adjoining thereto; and we report that the same are placed in an airy and salubrious situation; that an abundant supply of good water is conveniently distributed through them; that the numerous apartments are well ventilated and well lighted, and are furnished with the means of being sufficiently heated when necessary; and that the prison, chapel, areas, and yards are so constructed as to insure the safe custody, and to provide for the classification of prisoners.

We do therefore humbly report that, in our opinion, in regard to the health and security of prisoners, the whole premises may now, with great propriety, be occupied as a common gaol.

Given under our hands, at Paisley, the 9th day of February 1821.

(Signed) JAMES CLELAND.
JOHN WHYTE, M. D.
HUGH THOMSON, Surgeon.

Edinburgh, 11th February 1821.—The Lords having resumed consideration of this petition, with the report required by the last deliverance, find and declare the south division of the said prison buildings, with the areas and yards belonging and adjoining thereto, and also the chapel intended to be used as a place
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of religious instruction to the prisoners in both divisions of the 1821-
prison buildings, to be a legal jail and prison for the confinement
of debtors ; and authorise the removal of the prisoners presently
under confinement, as debtors, in the old jail, to the said new
jail, and decern accordingly, and dispense with the minute-book ;
and, finally, ordain this petition, with the deliverance of the Court,
and report above mentioned, to be recorded in the books of Se-
derunt.

(Signed)

C. HOPE, *I. P. D.*

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A P P E N D I X.

11th March 1809.

Sentence against Joseph Muir, Labourer in Glasgow,
Andrew Lyon, Shoemaker there, Charles Murray,
Labourer there, for Perjury.

THE Lords of Council and Session having advised the petition and complaint at the instance of his Majesty's Advocate, for his Majesty's interest, with the answers thereto for Joseph Muir and Andrew Lyon, and the answers for Charles Murray, and resumed consideration of the conjoined actions of advocacy and declarator between Robert Macalpin and James Macalpin, both spirit-dealers in Glasgow, testimonies of the witnesses adduced, writings produced, and whole procedure, and particularly their interlocutors of the 18th of November last, in said conjoined processes: **FIND** them, the said Joseph Muir, Andrew Lyon, and Charles Murray, guilty of the said crime of perjury, in the course of the said conjoined actions; and, therefore, **DECERN** and **ADJUDGE** the said Joseph Muir, Andrew Lyon, and Charles Murray, to be carried from the Bar back to the tolbooth of Edinburgh, and therein to be detained till the 22d day of March current; and upon that day, **GRANT WARRANT** to, and **ORDAIN** the Magistrates of Edinburgh, and keepers of their tolbooth, to deliver over the persons of the said Joseph Muir, Andrew Lyon, and Charles Murray, to the sheriff-depute of the shire of Edinburgh, or his substitute, who is hereby ordained, upon proper notice given, to attend, receive, and transmit them under a sure guard, till they are brought to the shire of Linlithgow; the sheriff-depute whereof, or his substitutes, is in like manner ordained, upon proper notice given, to attend, receive, and transmit them under a like sure guard, till they be brought to the shire of Lanark; the sheriff-depute whereof, or his substitute, is in like manner ordained to attend, receive, and transmit them under a like sure guard, till they are brought to and incarcerated within
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the tolbooth of Glasgow ; the magistrates whereof, and keepers of their tolbooth, are hereby required to receive and detain them till the first market day in April next ; and upon that day, ORDAIN the said Joseph Muir, Andrew Lyon, and Charles Murray, to be taken furth of the said tolbooth, and to be put upon the pillory of the city of Glasgow, and there to stand for one hour, viz. from twelve to one o'elock of the said day, with a label on their breasts, bearing these words in large characters, *Perjured Witness in a cause before the Court of Session* ; and thereafter to be taken back to the said tolbooth of Glasgow, therein to be detained for the space of six kalendar months from that date, and then to be set at liberty, in order to their going into banishment in manner after mentioned : Requiring hereby the Magistrates of Glasgow to see this sentence put in execution : And further, the said Lords DECERN and ADJUDGE the said Joseph Muir, Andrew Lyon, and Charles Murray, to be banished, and hereby banish them furth of Scotland, during all the days of their lives ; and ORDAIN them to depart therefrom within fourteen days after their liberation as aforesaid ; with certification, that if they or either of them shall ever return to or be found within Scotland, at any time after the expiration of the said fourteen days, they shall be apprehended and transmitted from sheriff to sheriff till they are brought to and incarcerated in the tolbooth of Glasgow : The Magistrates whereof, and keeper of their tolbooth, are hereby required to receive and detain them till the first market day thereafter, and then to cause them to be publicly whipt through the streets of Glasgow ; and thereafter ordain the said Joseph Muir, Andrew Lyon, and Charles Murray, again to go into banishment as aforesaid, under the foresaid certification ; and ordain this sentence to be recorded in the books of sederunt, to the terror of others to commit the like in time coming.

(Signed) C. HOPE, I. P. D.

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Interim Sheriff-depute appointed, 18th June 1818.

Woodhouselee, Lord.

Removed to First Division, 12th November 1811.

Wright, Robert.

Sentence against him for imposition on Court, 26th May 1812.

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